The Compleat SOLLICITOR Performing his DUTY: AND Teaching his CLYENT to run through and manage his own Buſineſs, As well in His Majeſties SUPERIOUR COURTS at *WESTMINSTER*, As in The MAYOR'S COURT, Court of HUSTINGS, And other Inferiour Courts, both in the Citie of *London*, and elſewhere.

Scire tuum nihil eſt, niſi te Scire, hoc ſciat alter.

London, Printed by *Ja. Cotterel*, and are to be ſold by ſeveral Bookſellers in *Fleet-ſtreet* & *Holborn*, 1668.

To the Reader.

MAny rough and cragged by-ways have been a little troden towards the Intricate practice of the Laws Myſteries; but no foot-path directing thither ſo plainly beaten, as that any one could by the trace thereof find the way, without being ſubject to any Aberrations: And although many (and thoſe not imperfect) Guides and Directories have made ſome publique appearance thereof, yet they want of that perfection that ſhould ſafely conduct the Zealous Pilgrim through the ſullen deſerts, and over the Craggy precipices of this Herculean voyage: Hic labor, hoc opus eſt. It is a very eaſie matter to ſeem to Sollicite; but a work of no ſmall difficulty, for any one to acquire himſelf to be Re-vera

an Expert and Judicious Sollicitor; *not* nomine tantum, *not* ſuperficially *and* hiſtorically *to bear the name of a Sollicitor: there have been (if there are not) too many of them; and if not more then are good, I doubt more then needs. It is not enough for the Sollicitor to be as it were the Loader to the Attorney, or the Intelligencer to the* Client; *But to be experienced in the Rules, practice and proceedings of the Court where his cauſe depends, that he may be the more capable in the management of it, both* Offenſive *and* Defenſive, *and to perceive the Indications of its progreſs, ſtate and* declenſion.

There have appeared ſome practical treatiſes of the Law, pretending much to this purpoſe; but in effect perform nothing; but rather like Will with a Wiſpe *in a dark night, lead a man out of his way, and there leave him. I have here opened the obſcure Turnings of the* Dædalian Labyrinth; *or at leaſt made ſuch a Clew thereunto, as will*

lead

lead the Sollicitous Sollicitor *through all its* Mæandring *intricacies; and have at every ſtage made a Bill of fare, ſo that he that will undertake the voyage, may before his Attempt count the Charges of his Journey, and furniſh himſelf accordingly. For if any one attempt it unprovided, and fail by the way, he will be in a bad condition, and not only looſe the hopes of his Adventure, but may raiſe a potent Enemy to purſue him at the heels backwards. Wherefore be ſure before you make any ſuch Expedition, Compute the Charge, and be ſure to be well provided and armed for the whole voyage, if you intend to come to your deſired haven; to which I wiſh all may come who imbarque in a* legal cauſe; *and in that progreſs I leave them: and may all others whoſe Pilots are* Avarice, *malice, or* vexation, *ſuffer Wrack upon their own* impetuous *ſands; and the ingenious and unbiaſſed Sollicitor, and legal Student, I wiſh he may reap the benefit hereby intended him.*

An

An Advertiſement.

YOu will herein find more perhaps then may be thought convenient, in regard the great Authority of the Kingdom hath judged it meet to lay aſide two of the Courts there ſpoken of, *viz.* Star-chamber and Court of Requeſts. In anſwer to which you may take notice that the offer of thoſe Courts is not as to matter of preſent practice, but onely that the leſs knowing and more juvenile practicer may perceive what from antiquity hath been done, and how the ſame practice may (by their ingenious obſervation) be noted, to be derived to the preſent age through the clean Pipes of his Majeſties preſent Courts of Juſtice, though not deducted through their Original Chanel. It is therefore hoped, that no offence will proceed to a candid eye, if it obliquely run them over with a glance; their innate neceſſity having at firſt not without reaſon claimed a high ſhare in the maintenance of the Prerogative Royal.

Farewell.

THE

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The Compleat SOLLICITOR, IN Equity and Common-Law.

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MAn is not born to live with his arms acroſs; but rather, as one of the moſt neceſſary members of this beautious frame of the world, he muſt conſer and contribute his whole travel and pain to the conduction and conſervation of that civil Society in which he is placed; not onely to the good of himſelf, but of

others alſo. But becauſe that in the choice which men make of a Calling, their happineſs in the managery thereof doth depend; and that nothing ſo much avails to the leading a contented life, as when they finde themſelves fit for the ſame: they ought before all other things to take a tryal of their own ſtrength, and ſeriouſly bethink themſelves of that charge they are about to embrace; becauſe uſually we preſume too much upon our own ſtrength, and attempt more then our ability is fit to atchieve: And this errour we ſee is incident almoſt to all our actions. Hence it is, that ſome will ſpend more then their eſtates may well bear; others, in labouring and toyling go beyond their abilities: ſome are not maſters of their paſſions; others there are, that in dalliance and ſporting waſte their time: and another ſort there are, who are ſo vehemently Satyrical, that they will not ſpare any perſon, no not the Prince, although thereby they incur the hazard and penalty of loſing their heads. Some are unapt to manage publick affairs, as being of a ſullen and ſolitary humour, or of a ſlack and ſlow diſpoſition; and others as unfit for all imployment as any of the forementioned, for that they be either obſtinate in opinion, or diſcourteous and booriſh in their behaviour and carriage. And that which maketh us to fall into theſe faults, is, for that we do not thorowly ſee and look into our ſelves. Whence it cometh to paſs, that thus neglecting to take a true tryal of our own towardneſs nd ſtrength, we do often undertake buſineſſes of ſuch gravity and weight, as that afterwards we muſt either abandon them with ignorance and ſhame; or elſe to go on with them, we muſt needs ſuffer much grief, pain and diſpleaſure.

Now that a man may the more warily weigh an affair before he put his hand to the Plough, (as we ſay) or his back to the burden, let him remember that the

bearer

bearer muſt always have more pith then the burden: for if it be too great, or too heavy, who ſeeth not but that the undertaker ſhould be conſtrained either to leave it, or elſe to ſink and fall under it, ere it be long? It behoveth us alſo to conſider, that there are diverſ kindes of affairs; ſome whereof are hard, uneaſie and difficult; not ſo much for that they be weighty and important of themſelves, as for that they be matched and mingled with a multitude of other toyliſome and troubleſome buſineſſes which continually attend and wait upon them. I ſpeak not this to diſmay, or ſo to discourage any man, as to make him decline and eſchew the undertaking of neceſſary and needful employments, (ſuch as is this of our Sollicitor) becauſe of the many encumbrances and cares wherewith they may be accompanied; ſo that not daring to intermeddle with any matter of moment, he ſhould abide without buſineſs: but this is my whole intent and meaning, that ſeeing a mans life is naturally ſubject to pains, troubles and cares, it behoveth a man ſo wiſely and warily to demean himſelf, that if it be his fortune to undertake the managing of any buſineſſes, he neither be ſo feeble-hearted as to ſhun or relinquiſh them for their difficulty, nor yet ſo fool-hardy as to undertake ſuch affairs as go beyond the reach of his ability. It behoveth therefore diligently to conſider every undertaking: for, for want thereof, many have fallen into ſuch kinde of employments as have been painful for them to bear, and yet more uneaſie to be abandoned: which being a caſe of ſo great difficulty, doth require both much prudence and patience; the two onely proper remedies to lighten and eaſe an evil: with which two vertues, our Sollicitor ought in an eſpecial manner to be endued, as being to encounter a hard and difficult ſtudy to gain the knowledge of the Law in ſome reaſonable meaſure, before he

can, or rather ought to be admitted to the practick part; which as it hath in it something of gain and profit, so hath it also its extraordinary toyl and labour; which, it's true, at the first seemeth very irksome and tedious, but by continual usage becomes even as a natural habit. Just like poor prisoners, who suffer with great pains and torment at first the weight of the fetters that are put on their legs; but after they are once accustomed thereto, necessity teacheth them by the constant wearing thereof, not to think the same so burdensome. By which it appears, there is no manner of life, how strict, hard and laborious soever it be, which hath not some kinde of solace, and refreshment one or other, to sweeten the same. And truly there is not any one thing wherein Nature hath so much favoured mankinde, as this, that she maketh us finde the remedy and mitigations of our misfortunes, cares, toyl and labour, even in the very sufferance and undergoing of the same.

The case then so standing as it doth, that man is born obnoxious and subject unto all manner of miseries, and that his whole life is nothing but a servitude, wherein every one ought to take good heed how to demean himself in his Calling, and how he may content himself therein, winking at that which is evil in it, and applying himself to that which is good: for there is no Calling, (as I said before) howsoever painful and toylsome it be, wherein the patient soul doth not finde some contentment and gain, though that cunning and skill be more exquisite in time of adversity then of prosperity: for whenas difficulties do present themselves, then must we gather all the forces of our wits together, and set our whole vigour and vertue against such imminent and present evils.

Moreover, Envy and Ambition are the two Cankers that corrupt all that are once tainted therewith, and

blear the eyes, ſo that they cannot ſee to perform their duty aright, and as they ought to do. And therefore our Sollicitor muſt not bear envy againſt ſuch as are in higher place then himſelf, but ought to content himſelf in his proper ſtation. For it is a main ſtep to attain both practice, love and preferment, when he does prudently and diſcreetly carry himſelf in that eſtate and Calling which he hath made choice of, taking patiently the evils that fall out therein, and endeavouring to redreſs ſuch accidents as cro s his deſires. And for this cauſe *Plato* did compare the life of man to the play at Dice, whereat whoſoever doth play, ought always to ſtrive to have a fair throw, and yet ſhould content himſelf with any caſt that cometh. The want of this ſatisfaction, maketh men of weak wit, upon the fortunate ſucceſs of any buſineſs ſo to be elated and tranſported, that they ſcarcely know what they do; they grow ſo inſolent, that no man can keep them company; they can abide nobody, and no-body can abide them: but if either by neglect, want of management, diſfavour, or ill fortune, they are croſſed in their deſignes, (though never ſo contrary to reaſon) they are ſo enraged or amazed, that you ſhall ſee them like unto one ſick of a long and languiſhing diſeaſe, which can neither abide heat nor cold.

The Philoſopher *Theodorus* was wont to ſay, that he gave his Scholars inſtructions and leſſons with the right hand, but that they received them with the left. And ſo doth it fare oftentimes not with a few, who with the left-hand take hold of the luck which Providence reacheth to them with the right. It were much better, in my judgement, diſcreetly to imitate the wiſe diligence of the Bees; which of Thyme, that is but a dry and harſh herb, extract and confect ſweet and pleaſant honey: ſo ſhould every man in his

ſtation, out of the troubles and ſollicitudes of his life, draw whatever is good therein, and in the mean time, chaſe away what is evil, or ſo caſe and cover it, that it may not be diſcerned. And who knoweth not but that ſuch as exerciſe themſelves in the actions of vertue, can by a ſecret and ſupernatural kinde of Alchimy, draw good out of evil? *Diogenes* was banished; but he made good uſe of his baniſhment, in that he did in the mean time betake himſelf unto the ſtudy of wiſdom. And this ſhall not be ſo difficult and hard to do, as it ſeemeth to be, if by frequent exerciſe he do endeavour to acquire the habitude and ſettled cuſtom of living content in his condition. Can ye not abide in the houſes of Princes or great men? Content you then with your own. Do ye finde your ſelf incapable to govern, or ſit at the helm in the Common wealth? Play then the good Citizens part, and be content to obey: for it is expedient that he that will undertake to be a Sollicitor in every way complear, muſt hold and keep a certain ſtayed and ſettled manner of living, and muſt not vary and change with every winde. Ye may ſee many much ſubject to this vice (for ſo I muſt call it) of changing their manner of living from day to day, ſo that they cannot ground or ſettle themſelves upon any thing whatſoever. They appear like *Proteus*, never long in a ſhape: *modo Cauſidicum, modo Rhetora*, as the Poet ſpeaks; wherein they reſemble ſuch as have never been accuſtomed to the Sea, who aſſoon as they begin to ſail, run out of one veſſel into another, leaving the bigger to put themſelves into a leſſer, and by leaving the leſſer to return to the bigger again. And thus they continue in changing, unill what time they know clearly that nothing can fit them, becauſe that whitherſoever they go, their queazy ſtomacks do ſtill keep them company, and conſequently their vomiting diſeaſe.

Like-

Likewiſe thoſe that bring their paſſions with them unto their affairs, do ſeek inceſſantly after a new manner of living, and never accompliſh what they have once begun. All things go againſt their ſtomacks, all things diſpleaſe them; whether to be idle, or to be employed; to ſerve, or to command; to be married, or to be ſingle; to have children, or to have none at all; finally, nothing doth fit their fancy, nothing doth ſatisfie their deſire, ſave onely that which they have not: and ſuch methinks muſt needs live miſerably and reſtleſly, as priſoners fettered in perpetual pain.

There is likewiſe another manner of men not much unlike the former, that cannot keep themſelves quiet, nor be at any ſettlement, in any time, or in any place. They ceaſe not to go and to come; always intermedling with affairs, without being thereunto called; and buſying and beſtirring themſelves about that which in no wiſe concerneth them. Theſe men when they go out of doors, they run along the ſtreets, they haunt the publick places, and then they return home full of vexation and wearineſs, without any deſigne: for there is nothing that doth ſo much irk and weary mens minds, as to labour in vain. They are like unto the little Ants, which do creep upward upon trees; and after they have mounted up to the top, have but the pains to creep down again the ſame way that they went up, without bringing down with them any good at all. Many live in this manner, whoſe life is nothing elſe but a boyling leiſure full of tumults and toyls. Ye ſhall ſee them poſting on with ſuch vehemency and ſpeed, as if they would carry away with them all that they finde before them. The publick places, the Churches and Markets are ordinarily full of ſuch folks. Theſe be they which forg and frame news at pleaſure: They will be ſcanners of all mens worths, and the givers of garlands: They will talk laviſhly of other

mens lives, and diſcourſe of other mens offices. But the actions of a well-adviſed man, (ſuch as a compleat Sollicitor ought to be) tend always to ſome certain end; neither doth he burthen himſelf with more buſineſſes then he can with conveniencie turn his hand to, and put in execution: according to that of *Cicero*; *Omnis cogitatio motuſq; animi, aut in conſiliis capiendis de rebus honeſtis, & pertinentibus ad bene beateque vivendum, aut in ſtudiis Scientiæ Cognitioniſq; verſabitur: Omnes enim trahimur & ducimur ad cognitionis Scientiæ cupiditatem: in quæ excellere pulchrum putamus; labi autem, & errare, neſcire, decipi, & malum & turpe ducimus.* That is: "Every thought and motion of "the minde ought to be employed either in conſulting of honeſt things, and ſuch as may lead to a "good and happy life; or in the ſtudy of Arts and "Sciences, and the way to gain knowledge: for we "are all drawn, or, as it were, led by the hand to a deſire of getting knowledge, and bettering our underſtanding: wherein to excel, is accounted an excellent thing; but to ſtray, deviate, be ignorant, and "eaſie to be deceived, not onely by others, but alſo "by our ſelves, is counted a great ſtain to reputation.

CHAP.

CHAP. II.

Of the qualities wherewith a Sollicitor ought to be endued, to make him compleat.

THe former Chapter having treated in general of the neceſſity of knowledge to be ſought and acquired by all men, we ſhall in this now deſcend to particularize the qualities wherewith every one ought to be endued, that intends to take on him the buſineſs of Sollicitation. To which purpoſe we ſhall obſerve five things:

Firſt, he ought to have a good natural wit.

Secondly, that wit muſt be refined by education.

Thirdly, that education muſt be perfected by learning and experience.

Fourthly, and leſt learning ſhould too much elate him, it muſt be balanced by diſcretion. And,

Fifthly, to manifeſt all thoſe former parts, it is requiſite that he have a voluble and free tongue to utter and declare his conceipts.

Firſt, he ought to have a good natural wit, not too ſlow nor too quick. Not too ſlow: for men of ſlow capacity are for ſuch weighty undertakings altogether unfit; their conceit being ſo tough, that neither the rules of learning, nor the precepts of wiſdom, nor habit of virtue, can make any impreſſion. *Tardis mentibus virtus non committitur*, ſaith *Cicero*: for their dulneſs is an enemy to wiſdom, and their ſlowneſs hurtful to the moments of occaſion.

Some I have heard of, I confeſs, that in their choice of one to manage their affairs, have elected a man of this diſpoſition; ſurely *contemptu magis quam gratia*:

tia: for I see no ground to allow their opinion, since those ought to be preferred who are good, and know why they are so; whereas these simple wits are easily both altered and deceived.

And as they should not herein be too slow so neither should their wit be too pregnant and sharp, lest it become like a razor, whose edge the keener it is, the sooner it is rebated; or like soft wood, which is ready to receive the impress of the Limner, but in regard of its warping is unable to keep it, and therefore is not fit for any worthy portraicture. Men of this disposition are of more quick then sound conceipt, in all their actions unstayed and fickle: one while embracing an opinion, as seeming the best; then again looking more nearly; and not able to answer the doubts which are ready to enter an open invention, fall to a strange kinde of uncertainty. In their negotiating of business, they decree that of other mens proceeding, which in their own case they would do: and in this security are oftentimes so over-reached by their adversary, that they cannot return without great disadvantage and loss. Commonly they follow rather subtile then wise counsels; which for the most part do not speed, being only *prima specie læta*, things of appearance, and no substance *tractu dura:* for by how much the subtlety is greater, by so much it is necessary that the handling be very curious and exact, else they sort to no end; being like a Clock, which most artificially composed is soonest disordered and put out of frame: and then they are *Eventu tristia*, so odious and unsavoured, that they are always waited on by a sinister success. And therefore wit may in this case be said to resemble the Sun, which so long as his beams wander abroad, and disperse according to their natural liberty, doth gently warm and cheer the earth; but when they are by a violent reduction contracted and drawn together in the hollow of a burning-

burning glass, consumeth that onely should be refreshed. In brief then, such should and must be the wit that is fit to negotiate affairs, whose over-pregnancy must be tempered with a measure of solidity; by which means becoming *actu otiosis simillimi*, they dispatch their business with much moderation. And with such a wit our Sollicitor being endued, will even in the execution perceive, and upon present occasion determine and take counsel: as Fencers do in the Lists, whom the countenance of the adversary, the bending of his body, and the moving of his hands, doth admonish how to proportion the distance, how to offend where is least ward, and how to defend where there is likely to be made the strongest assault.

2. But it is not enough for our Sollicitor to have such a wit, unless the same be further refined by education. Now education (as the Philosopher speaks) is a good and continual meaning of the minde: this being indeed the principal foundation of all humane happiness, and as the formal cause of our life; so this is the efficient both of a clear understanding, and so consequently of a good life: without which, men are burthens and eye sores to the Commonweal; nothing but a cypher--*Et fruges consumere nati*. Now education may be atchieved as well by association as inculcation: for good company is like a wholesome Air: a man may profit much even by the changeable interview of a good man. This is a thing of very great consequence in young minds, according to that of the Poet, *Quo semel est imbuta recens servabit odorem*——*Testa diu*——They are apt to be seasoned either with good or bad resolutions, and to receive the impress of any custome, which their first company shall by the silent perswasions of their actions impose upon them. So then, though company is a great matter, and will prevail much; yet evil customes may be deleted, at least altered or amended by in-

inculcation; which must not be done with terms of affected indignation, but in a more moderate way, mixing reprehensions with fair perswasions, and laying before the eyes of their understanding the generous example of several persons: so by recording their tractable and officious dutifulness, to enflame them to imitate and surpass them.

3. Having thus both by precept and example received the benefit of Education towards the refining of his natural wit, it is in the next place necessary that our Sollicitor should be perfected by Learning. Now although Learning have a private and pleasing end in it self, as being the harbour where the free and untroubled consideration hath a delightful repose from the Sea of more unquiet thoughts; yet is it but a serving quality, preparing the minde to a nobler end of well doing: for Knowledge or Learning teacheth not her own use, but as a necessary mean enableth us to good actions: and it ought to be measured by Vertue; and if loved for any thing, it must be because it informeth us to do vertuously. It is an excellent Commendation that *Pliny* giveth to *Trajan*; *Præstas quæcunq; tibi precipiunt, tantumq; eas literas diligis, quantum ab illis probaris.* We must use the precepts of Learning as the Laws of our behaviour: we must remember that the glory and increase of Knowledge consists in the exercising of goodness; and the masculine and active power of the minde must be joyned thereto, to make us perform good and great things. But as it is to be followed, so it is not to be embraced with too vehement fervencie: but let that saying of *Cato* be remembred; "That active mindes "cannot be with a more honest idleness, then the "studie of letters corrupted; nor idleness by any "greater or more dangerous policie find easie enter-"tainment in a well governed Commonweal.

This

This Learning will at length reach to lay hold on another moſt excellent branch of her ſelf, which is, Experience: and indeed it is the moſt entire part of Learning, without which, the moſt abſolute Scholars and learnedeſt men cannot attain to any degree of perfection in civil actions. For there is more of certainty in the principles of practice, then in the moſt neceſſary demonſtrations of cleareſt diſcourſes of reaſon. And thoſe men that are intendants, (as our Sollicitor ought to be) and practiſed in the Occurrents of Courts, are fitter for any active employment, and can with better eaſineſs diſpatch any buſineſs: *Quoniam enim habent oculum ab ipſa experientia, vident ipſum principium.* Theſe become as it were truſty Oracles, on whoſe judgment a man may ſafely repoſe his whole fortunes: they are on earth, *inſtar præſciorum Numinum*; whoſe advice a man ought to take, before he engage himſelf in any action.

For the mean by which Wiſdom enableth to foreſee a ſucceſs, and accordingly after due Conſideration rule the preſent, is Conjecture; which by comparing things paſſed, preſuppoſeth out of the ſame cauſes the ſame effects. Now in this obſcure and uncertain deliberation upon the future, our Sollicitor being experienced, is like him, who having tryed a dangerous paſſage in his own perſon, and noted the by turnings which might divert him into an errour, can in the darkeſt night with a ſecure and forward alacrity go the ſame; and overcoming all difficulties, arrive at the appointed place: whereas another, though furniſhed with the ſoundeſt directions. (yet never having proved it) quaketh at every ſhadow; and having his Spirits ſhut up in amazement, plainly hazardeth his perſon. Now the rules to perfect this experience in our Sollicitor, are, to frequent the Courts of Juſtice, as Free-ſchools of civil learning; to endeavour

deavour to understand all Occurrences therein; to confer thereof with men expert, real, of a deep insight, such as are not carried away with appearances, but *Can spy day at a little hole*, (as the Proverb speaks) and make judgement out of matters themselves, and discern between truth and truths likeness, and know when covert designs are the soyls of more eminent intentions.

4. And now our Sollicitor being thus forward toward perfection, lest he should be too much elated and puft up, all those his foregoing parts must be balanced and kept even, by the unbyassed Rules of a sound judgement and solid discretion, which should be the balance in which he should weigh all his actions

The first part hereof is Deliberation; in which he must neither resolve with haste nor affection: the one not giving time enough to discuss those things which ought to be considered; the other so occupying the minde, that no thought can creep in, which doth not in all regards conform it self to give sufferance to that passion He must promise himself nothing, before his Conceptions are by great presumptions assured of success: for the fervency of hope maketh men somewhat more retchlesly negligent; insomuch that when they are disappointed, they are as impatiently grieved, as if they had fallen from an essential felicity. Like Novice-Merchants, who sore counting great gains, and failing of their fresh expectation, are suddenly embarked in that irrecoverable mischief of debt.

Another point of discretion which he ought to make use of, is, *Principiis obstare* to provide at the beginning, and not linger till he be surprized both in his business and judgement; and what he cannot compass at the first, it is best by timing and waiting to expect an opportunity: for often, things by time receive contrary revolutions, and conclude clean different from their apparance and likelyhood. And although he may sometimes

times wait long, yet he muſt continue in action, and managing of the matter: ſo may new buſineſſes ariſe out of the former, both by reaſon of the coherency and way that opens one to another. Herein muſt be obſerved that of *Cicero*; he muſt *non ſolum animis ſed etiam oculis ſervire civium*: he muſt not think himſelf diſcharged except he accompany his actions with fair likelyhoods. This, if it be not affected, ſets a ſplendour, and gives a grace to our actions; teaching us to put a difference in perſons, and with divers natures to treat diverſly, applying to every mans humour.

Some men are ſo incapable, that they make ſmall things great, eaſie buſineſſes impoſſible; and enterprize nothing which through their perverſeneſs is not with difficulty accompliſhed: whoſe folly a man may compare to the unskilfulneſs of ſome Chirurgions, who inſtead of healing, feſter a wound; and inſtead of mitigation, make the torments more grievouſly dangerous: whereas expert ones do with gentle Lenitives redreſs the malady, before the Patient have any thorow ſenſe or feeling of pain. So our Sollicitor being thus guided by diſcretion, and having his ſpirit awaked to all circumſtances, doth manage matters with a more delicate deportment; and by certain premiſed Preparatives, ſo diſpoſeth the minde of the other agent, as it may be apt to receive any form which ſhall be impoſed: uſing the ſame conſideration which good Players at Tennis have, who not to ſuffer a reſt, do not only ſtand attentive to ſend it to their Companion, but with like heed provide to retake it, by accommodating their perſon, and expecting it in the likeliеſt place; ſo he, to avoid all hinderances, doth not onely ſuit his own words, but alſo gives favourable Conſtructions to the ſpeeches of the other Agent, by diſſembling the diſcontentments which might ariſe. In brief, ſome few other Rules for our Sollicitors diſcretion, may be

theſe:

these: He must avoid sudden changes, for that doth hold of violence; and *nullum violentum est diuturnum*. Again, he must settle more assurance in him that doth expect, then in him who hath received a benefit: for by speeding in Suits, men become slack waiters; when hope of gaining will certainly keep them in due devotion. He must also be wisely diffident, and put on a judicial distrust: put on, I say, because there is nothing less familiar and easie to honest men, then to suspect warily.

Having thus far trained him up in the way to perfection, and laid him down some few Rules to walk by, come we now in the last place, to shew how

5. He shall manifest the same, and comment on his actions. To which purpose it is necessary that he have a free and voluble tongue, to utter and declare his conceits: in the use whereof, it is necessary that he avoid affectation, and that his speech be honest, comely, significant, expressive, proper, and void of all fear, and effeminate terms, without any dissimulation: for doubtful and ambiguous words, with particular reserves, argue a base minde, and imbecility of spirit. He must not always shew himself a Scholar, but sparingly, and when fit occasion requires it: for sometimes to use conceits of Learning as Embroideries, is requisite; but then it should be in a hidden manner, like as apparel doth represent the proportion, but not the barrenness of our members: but generally it is the greatest wisdom rather to attend others, then to be an eloquent Merchant of self-conceits: for men expert and practised, can out of another mans words deduce great consequences, and take light of matters of great importance.

With these five Qualities so rectified as aforesaid, our Sollicitor being rightly adorned, he shall be able

with

with credit to run thorow all the hazards and difficulties which in his practice he ſhall or may meet with.

Object. But here I meet with an Objection, *viz. What need is there of all this coyl and ado about a Sollicitor? Do not all men know there are many Sollicitors who have much practice and great dealing, that have never been bred to any of thoſe things? ſimple fellows, who had not wit or honeſty enough to learn a mean Trade, and in truth cannot write their own Names, and yet are accounted brave fellows in that buſineſs.*

Anſw. To this, I anſwer: True it is, and to the ſhame both of the Law and the Profeſſors thereof be it ſpoken, that will ſuffer ſuch fellows by their ignorance and deceits to abuſe ſo many as they daily do. 'Tis by the means of theſe cheating devouring Caterpillers, that the honourable Profeſſors of the Law are ſo often cryed out upon for bribing and taking exceſſive Fees; and it will be no wonder hereafter if *Ignoramus* be revived, when ſuch a company of ſimple Sots ſhall be admitted or ſuffered to uſurp (and therein abuſe and make vile) the worthy name of a Lawyer. It is an abuſe well worthy to be inſpected by the diſcerning eyes of the learned Judges of the Land, and ſome ſevere courſe to be taken for the remedy thereof; whereof under favour and permiſſion, I ſhall make bold onely of one ſmall hint, as followes.

Whereas now every idle fellow, whoſe prodigality and ill husbandry hath forced him out of his Trade or Employment, takes upon him to be a Sollicitor; and thereby not only by their multitudes and ſwarming in every corner, they who have been at great labour, expence and ſtudy, either can have no practice at all, or at beſt ſo little that it is not worthy their looking after; and not onely ſo, but the Clyent alſo receives a double damage; firſt, in the tedious delay, and ſometimes the loſs of his cauſe; and then in the

vaſt expence of his money, whereof he can have no account: for remedy whereof, it would be well that it ſhould be declared, That no man ſhould dare to undertake to be a Sollicitor, either at Common Law or in Equity, unleſs he had for five years before at leaſt been of ſome of the Inns of Court, or Inns of Chancery, and ſhall be legally admitted and entred in a Roll for that purpoſe, to be kept in the Petty-bag-Office in Chancery, under a certain pain and puniſhment; and that no Clyent do entertain any other then one ſo qualified: by which means, if any abuſe be offered, the Court may take a Cognizance thereof, and puniſh the ſame. This ſhall ſuffice to have ſpoken in anſwer to that Objection: I ſhall now proceed, and ſhew the duty of our Sollicitor, both in what he ought to do, and what he ought to know. But for that, I ſhall refer you to the next and following Chapters.

Hitherto of the Qualifications of a Sollicitor; now of his Practice.

CHAP. III.

What our Sollicitor ought to know, the better to enable him in his Practice.

AS we ſuppoſe our Sollicitor to be chiefly if not wholly concerned in matters of Equity; ſo we ſhall to that purpoſe inform him, that he muſt of neceſſity be knowing in Courts of Equity: whereof the Chancery in this Kingdom being indeed the chief and onely lawful Court, if ſo be that he be truely inſtructed therein, it will be ſufficient to guide him in all the reſt. Therefore

In this Court the Lord Chancellor of *England* is the

the chief Judge; who in case of sickness, infirmity or other extraordinary business, may depute one of the Judges to sit in his place at any time: but in the Terms, the Master of the Rolls is equal with him, and sitteth at *Westminster-Hall* in the mornings; and three days in every week, during the continuance of the Terms, sitteth alone, assisted by two Masters of the Chancery, in the Chappel of the Rolls: and these in their several places, in manner aforesaid, do make Orders and Decrees.

The subordinate Officers of this Court are many.

The twelve Masters in ordinary, which are Assistants both to the Lord Chancellor and Master of the Rolls, as aforesaid, and sit with them, and to whom References are made, and before whom Deeds and Recognizances are acknowledged, and *Affidavits* made. This formerly might have been done before any Master at his own house, by the option of the party concerned: but now, by an *Act* of Parliament made in the thirteenth year of King *Charles* the Second's Reign, there is a general Office erected for the said Masters, wherein there are at certain hours every day, at least two Masters attending to dispatch the said business; which may not be done otherwise, or other where, but by special Order.

The Register of the Court, who hath divers under him that sit in the Court, and take notice of all Orders and *Decrees* made in Court, either before the Chancellor or Master of the Rolls; and accordingly afterwards, at the request of the party concerned, or his Sollicitor, draw up those Orders and *Decrees*: which are afterwards to be entred in the said Office, in a Book of Entries to that purpose kept; and being so entred, they must be returned to the Register; who having set his hand thereto, the same thenceforth

are authentick, and may not be altered without ſpecial order from the Court. In this Office alſo are filed all Reports from the Maſters, and all exceptions taken to any of the ſame Reports.

The ſix Clerks, in whoſe Office all proceedings upon Bill and Anſwer, unto the very Decree, yea and after Decree, are acted; and from whom likewiſe iſſue ſome Patents, as for pardon of a man for Chance-medley, Patents for Embaſſadors, Commiſſions for Bankrupt: and theſe are done by their ſitting Clerks, of which each Six Clerk keeps a ſet number.

The Curſitors of the Court, who were incorporated by Queen *Elizabeth*, by the name of the Twenty four Curſitors; amongſt whom all the buſineſs that lies in the ſeveral Shires is ſeverally diſtributed. Theſe make all Original Writs in the Chancery, which are returnable in the Common Pleas; and all Writs of Entry and Covenants.

The Maſters of the *Subpœna*-Office, the Clerk of the Affidavits, where all Affidavits are to be filed which you would uſe in Court. Heretofore they uſed them in Court, and after filed them; but now they muſt be firſt filed, and a Copy thereof taken to be read in Court, or elſe they ſignifie nothing.

The Clerks of the Petty-bag, who have many Clerks under them; and theſe Clerks have much variety of buſineſs that comes through their hands, and requires very much knowledge and experience for the managing thereof: for this Office hath the making out of all Writs of Summons to the Parliament. To this Office are all the Offices that are found *poſt mortem*, brought to be filed. In this Office are all Pleadings of the Chancery concerning the validity of any Patent, or other thing whatſoever that paſſeth the Great Seal. And theſe Pleadings are all in Latine, although moſt of the reſt of their Proceeds

were

were in Engliſh. If any queſtion ariſe about the acknowledgement of any private Deed between Subjects, which is acknowledged in Chancery before the Lord Chancellor or Maſter of the Rolls, or any of the Maſters in Chancery; and all Statutes and Recognizances taken before any Officers to that purpoſe deputed, are tranſmitted hither, and here proſecuted. Here alſo are all ſuits for or againſt any perſon priviledged in the Court. And laſtly, it is a hand whereby to tranſmit divers things from the riding Clerk and the Inrolment-Office, to the Chappel of the Rolls.

The Examiners are Officers of this Court, who take the Depoſitions of Witneſſes, and are to examine them, and to make out Copies of the Depoſitions.

There are likewiſe Clerks of the Rolls, who ſit conſtantly in the Rolls to make ſearches for Deeds, Offices, *&c.* and to make out Copies thereof.

The Uſher of the Court hath the receiving and cuſtody of all monies ordered to be depoſited in Court and maketh Certificates thereof, and payeth the ſame back again by order of the Court, and not otherwiſe.

The Serjeant at Arms, who carrieth the Mace before the Lord Chancellor; to him all perſons ſtanding in high contempt are brought up by his Subſtitutes as priſoners.

The Warden of the Fleet likewiſe is bound to attend this Court, to receive ſuch priſoners as ſtand committed by the Court to him.

The Court conſiſts of a double power, ordinary and extraordinary: the ordinary power is (as in the caſes of *Scire facias*) to repeal Patents in caſe of Traverſe, Endowment of a VVoman, and the like: and herein the Court is limited and confined to the Rules uſed in the Common Law. The other is extraordinary and

unlimited, (as in cases of *Equity*) wherein relief is to be had by a Suit here by way of Bill and *Answer*.

By the power of this Court are issued forth Commissions for charitable Uses, Bankrups and Sewers. In some cases Commissions have been here granted to examine Wastes, to set out meet ways for Passages, to prove a Childe legitimate, to prove Customs, and to examine Witnesses *In perpetuam rei memoriam*.

It proceeds by way of Bill and *Answer*, and gives relief in many cases besides and beyond the Rules of the Common Law: whereof practice will shew many experiments. And to this purpose it is necessary for our Sollicitor to read *Tothills* and *Caryes* Reports.

CHAP. IV.

Of the whole duty of our Sollicitor in his Practice.

HAving in the former Chapter gone through the most necessary things which our Sollicitor ought to know barely, it remains now we should come to the practick part of it; wherein we shall set down plain and easie directions for the greatest part of their manner of proceedings; wherein for methods sake we will begin with their first Process, called a *Subpœna*.

This Writ of *Subpœna* is the leading Process of this Court, as to the procedure by Bill and *Answer*; and is a close VVrit, and doth require the *Defendants* appearance in Court at a certain day, and under a certain pain therein limited, to make answer to the complaint of the Plaintiff, which is indeed the Bill: which in former times was wont to be put in, before the

the *Subpœna* ſued forth; but now of long time hath been otherwiſe uſed. This firſt *Subpœna* is called *Subpœna ad reſpondendum*; and is diſtinguiſhed by that name, becauſe there are ſeveral other *Subpœna*'s in order to further proceeding; as a *Subpœna* for Coſts, a *Subpœna* to make a better anſwer, a *Subpœna* to rejoyn, a *Subpœna* for VVitneſſes to teſtifie, a *Subpœna* to hear Judgement, and a *Subpœna ducens tecum*, for VVritings, Evidences, *&c.* Touching the *Subpœna* to anſwer, you muſt be very careful that there be no miſtake in the body of the VVrit; for that may prejudice the Plaintiff; and the Defendant may take advantage thereof, if he find it: but if there be a miſtake only in the Label, no advantage can be taken by it. In none of theſe VVrits may there at any time be put more then three names.

This VVrit may be returnable two ways: either upon the common days of Return, as *die Jovis proxime poſt tres Michaelis*; or elſe upon any day certain, which now is the moſt uſual courſe. And it is to be ſerved before the Return thereof be paſt: and this is to be done either by the delivery of the VVrit it ſelf under Seal to the Defendant in perſon, or by ſhewing to him the VVrit under Seal, delivering him a Note or Label of the day of his appearance. And this laſt courſe is moſt uſual, becauſe oftentimes there are more perſons then one in the *Subpœna*, and then the body of the VVrit is reſerved to be left with the laſt. Neither indeed is it at all required to ſerve this Writ perſonally: for it hath often been declared a good ſervice, when the VVrit or Label thereof hath only been left at the Defendants dwelling houſe, with ſome relating to him, and Affidavit thereof made; otherwiſe no contempt can be grounded thereon. And where a Defendant doth hide himſelf, or refuſe to be ſpoken with, it hath been allowed to be a good ſervice, to

leave the Writ hanging upon the door of the house, or to put it into the house under the door, or in at the window of the house of his usual Residence. *Also* it is taken for a good service, although it be served on the same day it is returnable, if it be served before Noon of that day, or before the rising of the Court. Where a *Subpœna* is had against husband and wife, and the husband alone is served, and hath notice that it is against him and his wife; this is a good service to both; and for want of an appearance, an *Attachment* may be had either against the wife only, or both. The *Subpœna* being served as aforesaid, the Bill must be put in in due time, or else the Defendant will have costs: to prevent which, you must take notice what time is prefixed for the exhibiting the Bill after the return of the *Subpœna*; which is thus: If the *Subpœna* be returnable upon a general Return-day, as *Crastino*, *Octabis*, *Tres*, *Mense*, &c. *post*, &c. then hath the Plaintiff time to put in his Bill until the second day before Noon next following, being the fourth day following every of the said Returns; and you must account the Return-day, and the fourth day after it, for two of the said four days. But where the *Subpœna* is returnable upon a certain day of the month, then the Bill must be filed the second day after before Dinner. *And* if the Bill be not filed (the *Subpœna* being returnable on a certain day of any month) then the Defendants appearance being entred, his Clerk in Court may prefer costs the next day after; and if the Bill come not in the next day after costs so preferred, before Noon, or presently after Dinner, then the Defendant is discharged with such costs as a Master of the Court shall tax him. But where the *Subpœna* is returnable on a Return-day, the next day after the fourth day is costs day: and if the Bill come not in the next after the costs day, as aforesaid, (the costs being

pre-

preferred the day before) then the Defendant is discharged from attendance, as aforesaid, with his costs.

Where the costs are not voluntarily paid for want of a Bill, by the Plaintiff or his Clerk, to the Defendant or his Clerk, in such case the Defendant may have a *Subpœna* for the said costs, which must be personally served on the Plaintiff: and if thereupon the costs be not yet paid, then the Defendant may (upon Affidavit made and filed that the said *Subpœna* was served) have an Attachment directed to the Sheriff of the County where the Complainant lives, to attach him for the said costs: and if the Sheriff make return upon the *Attachment*, that the Complainant cannot be found, then a Proclamation may be sued out against him; and that also being returned with a *Non est inventus*, then a Commission of Rebellion may be taken forth.

On the other side, if the Plaintiff do in due time file his Bill, and the Defendant appeareth not the next day after costs day, then the Complainant, upon Oath made that the Defendant was served with the *Subpœna*, may have an *Attachment*; and if the Sheriff return *Non est inventus* thereon, he may sue out a Proclamation and Commission of Rebellion in manner aforesaid, successively one after another.

The *Affidavit* that must be made of the service of the *Subpœna*, must be made according as the manner of the service was: for if the *Affidavit* made do not prove a good service, as before is set forth, then no *Attachment* can be had upon it: for there can be no *Attachment* regularly made out against the Defendant for not appearing, until there be a certain and positive Oath made of the time, place and manner of serving the *Subpœna*, inserting therein the return of the Writ.

And where any person served with a *Subpœna* doth injury

injury or wrong either by word or deed to the party who acted in the ſervice of it, or doth ſet at nought or contemn the Writ it ſelf, or the Authority of the Court from whence it iſſues; upon Oath made thereof, and motion thereupon, ſuch perſon will be committed to the Fleet.

Where there is appearance made by the Defendant within the time limited, and the Bill alſo filed, in ſuch caſe, upon a Rule given by the Plaintiffs Clerk to the Defendants Clerk, and the ſame entred into the Regiſter, the Defendant is to anſwer to the Bill by the ſame day ſeven-night then next to come: which if he fail to do, and do not otherwiſe in that time ſatisfie the Court, by ſhewing ſufficient cauſe of ſuch his delay, then the Complainants Clerk may make out an Attachment againſt him.

Now this Writ of Attachment cannot be duly had, unleſs the *Subpœna* beforegoing were duly obtained: for if the *Subpœna* be counterfeit, or if true, not legally ſerved, the Attachment is irregular; and the Defendant arreſted by it, upon diſcloſing the matter to the Court, will be diſcharged thereof: whereas an Attachment duly gotten, may not be diſcharged till the Defendant have firſt paid 25 *s.* coſts; and every ſucceeding Proceſs, double ſo much; and upon account thereof, he is diſcharged of courſe.

The husband appeared, and the wife not: an Attachment was granted againſt both. *Abells* Caſe, 19 *Eliz.* *Caryes* Rep. 65.

So he alone appeared, and put in a Demurrer in both their names, without excuſing her: Attachment was granted againſt both. *Spicers* Caſe. *Caryes* Rep. 39.

The Defendant made Oath he could not anſwer without ſight of Evidences, and had time given him, and afterwards put in a Demurrer: Attachment went out againſt him, *Paſch.* 21 *Eliz.* *Farmers* Caſe.

Where

VVhere the Defendant is ſerved with a *Subpœna*, and afterwards for not appearing an Attachment iſſue againſt him, if he do not appear thereon, but ſuffer a *non eſt inventus* to be returned, there will go out Proclamation of Rebellion againſt him. Yet note, that the Proceſs of Contempt, & all Attachments in Proceſs, are to be diſcharged upon the Defendants payment of the ordinary coſts of the Court to the Plaintiffs Clerk, or his tender thereof to the ſame, and his refuſal to take it, and filing of the Plea, Anſwer or Demurrer, as the caſe merits, without any motion: and if the Plaintiff do proſecute the Contempt afterwards, the Defendant will be diſcharged with coſts. Where an Attachment is had, if the Sheriff do not make his return, a day will be given; and if he do not by that time, the Court will ſet an Amerciament upon him.

VVhere any party is attached, and afterward proclaimed, and he comes not in, but ſtands further out in contempt, in ſuch caſe a Commiſſion of Rebellion may be iſſued forth againſt him, for the apprehending of him, and bringing him into the Fleet, (the proper Priſon of this Court) and this Commiſſion of Rebellion is ſometimes directed to the Sheriff, and ſometimes to private perſons; as in the Caſe of *Cage* and *Etrington*, *Trin.* 38 *Jacob. Tothil.* 37. This courſe is likewiſe taken againſt thoſe that perform not obedience to Orders or Decrees to pay coſts, or the like.

VVhere private perſons are made Commiſſioners, and do take the perſon in contempt; if they ſuffer him to eſcape, the Sollicitor may by motion get them committed till they bring him in; as in the Caſe of *Sachevorel* againſt *Sachevorel*, *Hill.* Term, 18 *Jacob. Tothil.* 38.

If any perſon reſcue one taken by a Commiſſion of Rebellion, the Reſcuer may be gotten to be committed. And if the Commiſſioners upon ſuch a Commiſſion

let

let the party in contempt go where he liſt, whereby he make an eſcape, they may be procured to be committed to the Fleet till they pay the debt. *See Nelſons* Caſe againſt *Yelverton* in *Trin.* 18. *Jacob. Tothil.* 39.

If a party appears not, but ſtands further out in contempt, a Sergeant at Arms may be ſent out to take him: and if he cannot, either by reaſon of his hiding or reſiſtance, or having taken him, he eſcape, and ſo perſiſt higher in his contempt; in ſuch caſe a Sequeſtration may be obtained, upon a motion and Affidavit thereof, of his Land: and if the ſuit be for Land, a Sequeſtration and Injunction for the profits of the Land. to be delivered to the Plaintiff by the Sheriff, or other Commiſſioners for that purpoſe: as in the Caſe of *Boles* againſt *Waldg* and his wife, *Cayes* Rep. 38, 58. 105, 109.

In all theſe Caſes it behooves a good Sollicitor to be careful, watchful and diligent, that he may not ſlip any opportunity that may work for the advantage benefit and behoof of his Clyent and his cauſe.

SECT. 2.

THe next part of our Sollicitors practice, is to be skilled in Bills and *Anſwers*, and the ſeveral proceedings thereupon: wherein he muſt obſerve, that the Plaintiffs Bill is in effect the ſame that the Declaration after an *Appearance* had, is, either in the Kings Bench or Common Pleas, and layes down the cauſe of his Complaint in Chancery, being uſually ſuch as is exempt from remedy at Common Law; and therefore they commonly inſert in the Bill theſe words, *That the Plaintiff hath no remedy at Law.* And this Bill by continuance of ſuch practice, may be put in after the *Subpœna* is both taken out and ſerved, ſo as it come

in

in within the time before limited in the former Section, to prevent costs.

This Bill in Chancery, and all subsequent Pleadings and Proceedings upon it, must be succinct and short, and not stuft with repetitions of Deeds, Writings or Records, (*in hæc verba*) but the effects and substance of so much of them only as it is pertinent and material to set down: and that in brief terms, without long and needless traverses of things not traversable, and without tautologies and impertinences. Neither must it contain any matter either criminal or scandalous against the Defendant, or any other; and if it do, the Defendant may refuse to answer it, and the Plaintiff and his Counsel (whose hand is to it) may be punished for it; and any other party grieved may recover costs against such Counsel.

Where any Bill contains matter not proper for the Court to give relief in, the Bill may be gotten dismissed; and so likewise will it be, if there want Counsels hand to the Bill, or if the Counsels hand be counterfeited or disallowed.

To such a Bill rightly fitted and filed, the Defendant is to make answer; wherein many times he makes much delay, but in all cases of delay, he must upon Oath satisfie the Court of the cause of such his delay; which may be in several respects: as,

First, where the matter contained in the Bill is such, as to which he cannot give an answer direct, without conference had with some other person in the Bill named, or to whom the Bill refers.

Secondly, where the Bill chargeth the Defendant with the having of Evidences or Writings, or Goods or Chattels of the Complainants, to make discovery what they are: in such case the Evidences or Writings, and Goods, being in the Country and he in *London*, he may make Oath he cannot answer perfectly

to

to the Plaintiffs Bill without ſight and peruſal of the Goods, Evidences or Writings which he hath in the Country. Upon which Oath ſo made, the anſwer will be ſuſpended till the firſt day of the next Term: but in theſe caſes, the place in the Country where the parties live, Goods, Evidences or Writings lie, muſt be above twenty miles from *London*: for if it be nearer, he muſt anſwer in eight days after appearance, unleſs further time be given by order.

There may alſo be Oath made by another perſon, either the Sollicitor, his Servant, or Neighbour to the Defendant, that he is ſick, and cannot travel without danger of life: and upon ſuch an Oath, a *Dedimus poteſtatem* (if the Plaintiff will not conſent to it) upon a motion or Petition, will be allowed to the Defendant. But heed muſt be taken that the Order whereby it was granted muſt be carefully entred in the Regiſters Office; and the Affidavit upon which the Order is grounded, muſt be filed in the Affidavit-Office. Where the Defendant doth not appear; or that after he hath made his appearance, he doth not anſwer within the time limited him, nor ſheweth any cauſe for the ſame: in ſuch caſe, an Attachment is awarded againſt him; which muſt be entred in the Houſe-book of the Six Clerks Office, and likewiſe in the Regiſter-book, expreſſing the cauſe of iſſuing the Attachment.

Where there is no day given by Rule to the Defendant to anſwer, in ſuch caſe the Defendant is at liberty to anſwer at any time during the Term: and where the Defendant makes default within that time to anſwer, then an Attachment may be ſued forth againſt him of courſe, and the ſame with the cauſe thereof muſt be entred, as before is mentioned in the laſt Paragraph.

Where the *Subpœna* is made returnable ſo near the

the end of the Term, that there cannot be a day given to the *Defendant* to anſwer; in ſuch caſe the *Defendant* muſt at his peril anſwer by the ſame day ſeven-night next following the day of his appearance, although it be out of Term: for the Chancery is ſaid to be always open. But where the *Subpœna* is returnable on the laſt Return-day of the Term, then the *Defendant* is at liberty to appear the firſt Return of the Term following. But if the *Subpœna* be returnable upon a day certain, although the day be the laſt day of the Term, yet the *Defendant* is bound to appear and anſwer by that day ſeven-night next following the ſaid appearance.

In all Caſes where the *Defendant* makes Oath that he cannot anſwer without ſight of VVritings, Evidences, or Goods, as aforeſaid, or conference with ſome other perſon, or that he have a *Dedimus poteſtatem*, and Commiſſion to take his anſwer in the Country; the Defendant muſt at his peril procure his *Anſwer* to be put in before the day after the firſt coſts-day of the next Term following, unleſs it be in *Trinity*-Term; for there it may be put in the ſecond day after the ſecond return, or otherwiſe the Plaintiffs Clerk may upon his default make out an *Attachment* againſt him for not anſwering in time.

VVhere the *Defendant* hath a *Dedimus* granted him, if there be cauſe of Plea or *Demurrer* found, then the *Defendant* ought to move or petition the Court to have a ſpecial *Dedimus Poteſtatem* by order to anſwer, plead or demur; for that the Commiſſioners upon an ordinary *Dedimus* have power to take and return no other things then an *Anſwer* only.

VVhere the *Defendant* doth demur, or put in any juſt Plea that he hath to the diſability of the perſon of the Plaintiff, or to the Juriſdiction of the Court, under

under the hand of learned Counſel, it will be received and filed, although the Defendant do not deliver the ſame in perſon, or by commiſſion. And if he do not put in his Demurrer or Plea into the Paper of Pleas and Demurrers, in the Regiſter-office appointed for that purpoſe, within eight days after the ſame is put into Court, that ſo it may be argued before the Lord Chancellor or his Deputy, as it ſhall fall in courſe; the ſame being ſo omitted to be done, the Plea or Demurrer is over ruled of courſe, and the Plaintiff may take forth a *Subpœna* to inform the Defendant to make better anſwer, and another for coſts for the ſaid over-ruling.

Where a man exhibits his Bill in Chancery, and dies *pendente lite*, whoever hath the intereſt in the thing complained for, whether Heir, Executor or Adminiſtrator, they may put in a Bill of Revivor againſt the Defendant: or in caſe the Defendant die, the Plaintiff may exhibit his Bill of Revivor againſt the Heirs, Executors or Adminiſtrators of the Defendant.

Where a Bill is exhibited againſt a man and his wife, and the matter contained in the Bill wholly concerns the wife, and they both anſwer the Bill, and after anſwer the husband dies; in this caſe a Bill of Revivor muſt be brought by the Complainant againſt the woman, if he intend to proceed in that ſuit: and the reaſon is, for that the woman ſhall not be conſtrained to abide by that anſwer which ſhe, together with her husband, or ſolely as wife unto the man, hath formerly made to the Complainant, for that ſhe was at that time under coverture. And in caſe ſhe ſurvives her husband, and continues poſſeſſed or ſeized of the thing in controverſie in *ſtatu quo*, ſhe may as ſhe ſhall think fit, make a new anſwer, and ſhall not be bound up or concluded by that anſwer which ſhe made during coverture, or ſolely as wife to the man: and yet if ſhe thinks

thinks fit, ſhe may ſtand to that former anſwer of hers, and proceed accordingly in that ſuit.

Where a Plaintiff exhibits his Bill againſt a *Femme ſole*, and ſhe appearing makes anſwer, and afterwards marrying becomes under coverture *pendente lite*: in this caſe the Plaintiff may proceed againſt her and her husband, and ſhall not need any Bill of Revivor; and her husband ſhall be bound by that anſwer which ſhe made while a *Femme ſole*, for that ſhe ſhall not advantage her ſelf by her own act.

Whereas on the other ſide, if a *Femme ſole* exhibit her Bill, and the Defendant anſwer thereunto, and afterwards ſhe intermarrieth; here there can be no further proceeds by the husband and wife without a Bill of Revivor, becauſe ſhe hath abated her ſuit by her own act of marriage, of which the Defendant may take his beſt advantage.

Where the man and the wife exhibits a Bill whereto the Defendant anſwereth, afterwards the man dieth, the woman may be at her choice whether ſhe will exhibit a new Bill, or proceed upon the Bill by her husband and her ſelf formerly exhibited.

Where there are two ſeized of Joynt-eſtates, or when they are Executors of one Will, or Obligees or Obligors, and they preſer a Bill in Chancery to which the Defendant makes anſwer, and after one of them dies; here the Survivor may proceed in his ſuit againſt the Defendant, and ſhall need no Bill of Revivor.

Note, That the Bill of Revivor muſt purſue the firſt Bill exhibited: for where there is any variance between them, the Defendant may be diſcharged, and the Bill will be diſſolved.

Where there are Adminiſtrators *durante minore ætate* of an Infant, Executors in the nature of a Guardian, and they ſue on the Infants behalf, & the ſuit depend-

ing the Infant comes to age, here it seems there needs no Bill of Revivor.

Where the Complainant hath exhibited his Bill of Revivor, and hath procured thereupon a *Subpœna* to be served, he will be upon this in the same case as the Predecessor was when the Bill accrued, unless some good cause to the contrary (as, that he is not Heir, Executor, nor hath the like interest, *&c.*) can by the Defendants answer be shewed.

Where a man doth willingly refuse to answer, and doth stand out till Process of contempt, the Court will take the matter of the Bill *pro confesso*, and decree it accordingly. See *Tothil.* 69.

If the answer be good to common intent, the Plaintiff must reply, and prove the matter if he can, and not insist upon insufficiency of the answer.

No exception can be taken to an Answer after a Replication put in; for it is then admitted to be good: but before Replication it may be excepted against. But where it is excepted against, the causes must be shewn in writing, and delivered in to the Plaintiffs Clerk the same Term the Answer comes in, or within eight days after: and if he mend it in eight days, he shall pay no costs; otherwise he must.

Where an Answer is excepted against as insufficient, it is usually referred to a Master to consider of the exceptions, and he to certifie whether it be insufficient, or not: if he certifie it insufficient, then the Plaintiff may take out Process for costs, and the Defendants second Answer is not to be received till he hath paid the costs.

The first Answer being returned insufficient, the Defendant must pay forty shillings for single costs: if it be an Answer that came in by Commission, and insufficient, he must pay fifty shillings costs.

The second insufficient Answer pays three pounds, the

the third five pounds: and you may have a *Subpœna* both for coſt, and for a better Anſwer.

In all caſes of exceptions, the inſufficiency appearing in the ſame exceptions is the point to be inſiſted on, and no new exceptions may be moved. But if the Maſter upon reference findes the Anſwer to be ſufficient, and accordingly certifies it, there the Plaintiff muſt pay forty ſhillings coſts.

If the exceptions to an anſwer be put in after the Term, there ſhall be time given to anſwer them until the fourth day of the next Term, unleſs the Court haſten it.

If an Anſwer come in by Commiſſion, and be not good, no new Commiſſion will be admitted but upon Oath of inabillty of the perſon, and his payment of fifty ſhillings coſts, as before.

Where a Cauſe goes to hearing upon Bill and Anſwer, the ſame muſt be admitted to be true in all points; and no other Evidence is to be admitted but what is matter of Record, to which the Anſwer doth refer, and which is provable by the Record it ſelf. *Caryes* Rep. 78, 30.

SECT. 3.

THe third thing neceſſary for a perfect Sollicitor, is to underſtand clearly the matter of Pleas and Demurrers: wherein he muſt obſerve, firſt, that a Demurrer is always where there is matter defective contained in the Bill, or where is forraign matter.

The Plea of forraign matter may be of two ſorts: either where it is to the Juriſdiction of the Court, or to the diſability of the perſon; as, where the Plaintiff is Outlawed or Excommunicate, or where there is in this or any other Court a Bill or Suit depending for the ſame cauſe: or it may be that the cauſe hath

been formerly dismissed in this Court, or the like; or if the matter of it appear upon Record, it may be put in without Oath, otherwise not. In case it be a Demurrer, it must express the cause of the demurrer: yet other causes may be insisted on at the time of arguing thereof in Court. When if the demurrer be over-ruled, the Defendant shall pay five Marks cost; and where it is allowed, the Defendant shall have no costs.

If one plead a Plea that is insufficient, and so overruled to be, as where it is an Outlary pleaded, and it is not a good Plea, he must pay five Marks costs.

An Outlary is not to be pleaded, unless you plead the Record *Sub pede Sigilli.* Also, a Plea of Outlary, If it be in a suit for the same thing for which a man sueth to be relieved in Chancery, is not to be allowed; but otherwise it is allowed, and will be in force to hinder all the Plaintiffs proceedings till it be reversed. But when it is reversed, the Plaintiff may upon payment of twenty shillings costs, upon a new *Subpœna* served, put the Defendant to answer the same Bill.

Where the Plaintiff conceives the Plea for matter or manner naught, he may put it to the judgement of the Court.

Where a man pleads a former suit, he need not set it down with the Register, but it shall be referred to a Master to certifie, (which must be done within a month upon the Plaintiffs procurement) and if the Master certifie against the Plaintiff, he must pay five shillings costs: if there be no report within a month of filing the Plea, the Bill will be dismissed of course, with seven Nobles costs.

If the Demurrer to any Bill be put in upon any slip or mistake in the Bill, the Plaintiff of course laying down to the Defendants Clerk twenty shillings for costs, may amend his Bill within eight days after the

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Demurrer put in, but not after that time.

If the Demurrer be admitted by the Plaintiff to be good within eight days after the filing of it, and he doth pay the Defendants Clerk in Court forty shillings costs, then the Defendant shall not need to attend his Demurrer, but the Bill shall stand dismissed of course without motion, unless both sides agree to the amendment of the same: yet such dismission is to be no bar to a new Bill to be exhibited by the Plaintiff.

Where the Plaintiff findes sufficient cause for an Order upon the Answer, he may go to hearing thereupon without further proof, (of which there ought to be very good advice taken) in which case, he must get his Clerk to present the same in course to be set down to be heard upon Bill and Answer. But in case the Court shall not finde grounds to make a Decree or final Order, the Bill shall be dismissed with costs, or the plaintiff admitted to reply, if he deserved it, first paying down five pounds costs within four days after such hearing; else the dismission to stand, and the conclusion of the Order upon hearing is to be penned by the Register accordingly: and then such dismission shall be a good Plea in bar of any new Bill for the same matter.

Where a Plaintiff proceeds so far as to proof, and upon the hearing it clearly appears that the Plaintiff might have had full relief upon Bill and answer, albeit he be relieved in the same cause, yet he shall pay costs. See more fully these things in the Collection of Orders, and *Caryes* Reports, 39, 87.

SECT. 4.

OTher things in practice necessary to be understood by our Sollicitor, are, Replications, Rejoynders, and Sur-rejoynders. Now a Replication i-

the Plaintiffs Speech in way of Reply to the Defendants Answer: the Rejoynder is the Defendants Answer to the Plaintiffs Replication; and the Sur-rejoynder is the second defence to the Plaintiffs Action, opposite to the Defendants Rejoynder.

1. The Replication must be short, relating to the substance of the Bill; and it must avoid superfluous and criminous matter.

2. The Replication must affirm and pursue the Bill, and confess and avoid traverse, or deny the Answer.

3. The Rejoynder that must pursue and confirm the Answer, and must sufficiently confess or avoid traverse, or deny any material part of the Replication.

4. No new matter must be put into the Replication; and so much matter onely is necessary to be there, as will avoid the matter of the Answer.

5. If upon the *Answer* there be so much confessed that the Plaintiff need not to draw into pleading, and prove all the points, he must see to it, and reply, and go to proof only in those particulars in question, and necessary to be proved.

6. When the Defendant doth demur or disclaim to any Bill exhibited against him, the Plaintiff cannot reply; and if the Defendant in those cases be served with a *Subpœna ad rejungendum*, having before made no *Answer*, but a Demurrer or Disclaimer, as aforesaid, he shall have costs for unjust vexation.

Where the case is such, that the parties cannot come to issue by reason of some new matter disclosed in the Defendants Rejoynder that requires to be answered unto, the Plaintiff may sur-rejoyn to the Rejoynder, and the Defendant likewise to the Sur-rejoynder, if there be cause.

As for the time of the Replication to be put in after the *Answer*, you are to observe that the Plaintiff hath time

time for all that Term, and all the next Term, and until the beginning of the third Term, to put in his Replication. The next Term after the *Answer* is put in, the Defendant may give the Plaintiff rule to reply; and if such rule be given, and the plaintiff reply not, costs will be given against him: but if there be no rule given, and the Plaintiff doth not reply the second Term after the Term the *Answer* is put in, the Bill will be dismissed with costs of course. But in case the Plaintiff doth reply, and that the Replication be in Court, the Defendant can have no costs.

Where the Complainant hath replyed, the Defendant may if he will rejoyn *Gratis*, and force the Complainant to joyn in Commission.

Where the Plaintiff intends to go to Commission, he must serve the Defendant with a *Subpœna ad rejungendum*, before he can have Commission to examine Witnesses; and upon return of that *Subpœna*, and Oath made of the serving it, the Plaintiff may by entring Rules, force the Defendant to rejoyn and joyn in Commission, or go on to the examining VVitnesses without him: for having given him seven days to rejoyn, if within that time he refuse to do it, he ought not to be admitted to do it afterwards.

VVhere the Defendant is served with a *Subpœna ad rejungendum*, and doth not upon the Plaintiffs Clerks demand to the Defendants Clerk deliver Commissioners Names by the end of the Term wherein the *Subpœna* is returnable, there the Plaintiff may either without motion or petition give Names, and take a Commission *ex parte*. See *Carys* Rep. 111. And this hath brought you to another branch of your Sollicitors duty, *viz.* the manner of joyning in Commission, and exeeuting ther eof.

SECT. 5.

IN the joyning in Commiſſion therefore to examine Witneſſes, the Complainant, according to daily practice, firſt gives four Names, and then the Defendant gives four Names: now the Plaintiff or his Sollicitor ſtrikes out two of the Defendants Names, and the Defendant or his Sollicitor ſtrikes out two of the Plaintiffs Names; and the other four, being on each ſide two, remain the Commiſſioners. This being done, and the Commiſſion ready, the Plaintiff is to have the carriage thereof; and he or his Commiſſioners muſt give either in perſon or by Note left in writing at the place of the uſual abode of the other party, fourteen days notice to him of the time and place of executing the Commiſſion: and if there be default then made by the Plaintiff or his Commiſſioners in the execution thereof, he muſt pay the Defendant ſuch coſts as he upon his Oath ſhall make appear he was put to in the attending the ſaid Commiſſion; and the Plaintiff muſt renew the Commiſſion at his own charge, and the Defendant ſhall have the carriage of it: And ſo on the other ſide ſhall the Plaintiff have, if the Defendant have the carriage of the Commiſſion, and it be loſt by default of his ſide. But where it becomes void by an error of the Clerk in making of it, the coſts ſhall be born by him, and that ſide for whom it was taken out.

VVhere the Defendant hath the carriage of the Commiſſion, he muſt give notice to the Plaintiff, as is before directed: and if ſuch notice be not given, either all the examinations will be quaſhed, or otherwiſe the Court will grant to the other ſide a Commiſſion *ex parte*.

VVhere there hath been Publication, there no Com-

Commiſsion can be granted or renewed for examining VVitneſſes without ſpecial order.

VVhere a Commiſsion hath been to examine VVitneſſes, without reference and certificate upon it, it cannot be diſcharged upon a bare petition.

VVhere a Commiſsion is taken out by conſent, and the one ſide at the ſpeeding thereof do put in no Interrogatories, nor examine any VVitneſſes (unleſs upon a motion, and by order of the Court) he ſhall never be after admitted to have a new Commiſsion.

VVhere the Defendant had VVitneſſes, and they being ſerved did not appear, but make default, here a new Commiſsion will be granted to the Defendant. See *Cayes* Rep. 91, 45. *Trhil.* 3.

The next thing is the choice of Commiſsioners, and exceptions againſt them. Firſt, they muſt be men indifferent: for the exceptions that are uſually taken againſt them, are, that he who is named Commiſsioner, is of kindred, or allyed to the party for whom he is named, and ſo may very well be deemed to ſide with that party: or that he is Maſter to the party for whom he is named, or that he is Landlord, or of his counſel, or Attorney for him, or one to whom he is indebted, or one that hath a ſuit with the adverſe party.

The Commiſsion being to be ſate upon at the time and place appointed, the Commiſsioners muſt call the VVitneſſes before them; whereif they appear not, an Attachment iſſues againſt them, unleſs it be where VVitneſſes are impotent, and then the Commiſsion may be adjourned to them to examine them where they be: and uſually the VVitneſs may demand his coſts before he anſwer.

Where Witneſſes appear to be examined, the Commiſsioners or Examiners muſt examine them themſelves, and not leave ſo weighty a buſineſs to the truſt of their Clerks or others to do it. They are to hold

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the Witneſſes to the point inſiſted upon. They ſhould examine them but to one Interrogatory at a time, and not to read another to them till they have anſwered that firſt. They are to take what comes from them, in anſwer to what they are examined; and not upon their ſight and reading all the Interrogatories, to let them ſet it down themſelves. *After* they have been examined, upon better thoughts they may ſuffer them to amend their Examinations. They ought not either to ask idle queſtions beſides the matter of the Interrogatories, nor ſet down impertinent anſwers. They are to ſet down truely in parchment their ſayings; and that done, they are to ſet their hands to every Schedule, and ſend them up into Court as they are taken, with a Certificate: and if the Commiſſioners meet with any obſtruction in the work, they muſt certifie that alſo.

After the Commiſſion is duly executed and returned up, one of them muſt deliver it in Court, or they muſt ſend it by one that muſt make Oath that he received it from one of their hands, and that it is not altered to his knowledge.

If any one of the Commiſſioners commit any miſdemeanor about examination, the party grieved, upon Oath thereof made, may have an Attachment againſt him.

Where is a diſagreement among the Commiſſioners, or where there is any other ſpecial cauſe that obſtructs the Commiſſion, they may have an Examiner ſent down on purpoſe to do it. See *Caryes* Rep. 30, 31, 40, 47, 80, 81. *Tothil.* 189.

The Interrogatories to examine Witneſſes, muſt be ſuccinct and apt: and when Witneſſes upon ſuch Interrogatories are examined in Court, you cannot examine the ſame Witneſſes upon putting in new Interrogatories.

Witneſſes ought to be examined by Examiners in Court,

Court, (if they live in or near the Town) and not by Commiſſioners: for no Commiſſion whatſoever ought to be iſſued out into any place within ten miles of *London.*

Either party, as well Plaintiff as Defendant, after answer put, until Publication be paſt, may examine what Witneſſes they pleaſe in Court, before one of the Examiners: but before *Anſwer*, and after Publication, no Examination will be allowed but by ſpecial order, ſome ſpecial cauſe being ſhewed.

Notice muſt be given both of the names and dwelling-places of the perſons examined, in all caſes of examination.

After an Order for Publication, and that delivered to the Examiner, no witneſs may be examined in Court, though he were ſworn before; and if any ſuch be, his Depoſitions may be ſuppreſſed. *Caryes* Rep. 27, 58, 93. *Tothil.* 189, 190, 192.

No Abſtract or Copy of the Depoſitions of any Witneſſes is to be delivered till Publication be paſt. Neither may any Depoſitions be ſuppreſſed upon a bare petition onely, with References and Certificates upon it.

Where there are ſeveral Cauſes which are meerly croſs Cauſes between the ſame parties, and touching the ſame matter, there the Depoſitions of Witneſſes in the ſeveral Cauſes may be uſed at the hearing of both Cauſes, (being heard together) without any motion.

Where depoſitions are regularly taken, they may not be ſuppreſſed by motion: but if any Depoſitions appear to the Court to be gotten by practice, they may by order of the Court be ſuppreſſed. Depoſitions taken in Chancery, may by order of the Court be made uſe of in any other Court. *Caryes* Rep. 35, 56.

He that will examine Witneſſes, (*in perpetuam rei me-*

memoriam) to preſerve a teſtimony, he muſt firſt exhibite his Bill, and ſhew his title to the thing, and that the Witneſſes to prove it are old, and not like to live long, whereby he is in danger to loſe it; and then pray a Commiſſion to ſome Gentlemen of credit in the *Country* to examine them, and a *Subpœna* to the parties intereſted to ſhew cauſe if they can to the contrary: and if the party intereſted being duly ſerved, within fourteen days ſhew cauſe, the Plaintiff muſt deſiſt; and if no cauſe be ſhewn, he may go on alone, if the other will not joyn with him, as he may if he will: and then fourteen days warning is to be given of the execution thereof. In this caſe the *Court* will appoint Commiſſioners, and give *Articles* to examine upon; or they may be examined in Court by an Examiner. But here obſerve, that none but aged and impotent perſons may be examined upon this Commiſſion.

VVhere the Defendant takes exceptions to the proceedings in ſpeeding the Commiſſion, as, whether he did appear or not, and whether Oath were made before them of notice given to him of the time and place of execution thereof, in ſuch caſe the Commiſſioners muſt certifie up with the Commiſſion, the exceptions the Defendant ſo took.

This teſtimony taken upon this *Commiſſion*, is not to be publiſhed while the VVitneſſes live; but in ſome caſes, as either by conſent of the parties, or upon Oath made that either the Plaintiff hath ſome tryal at Law, wherein he ſhall need it, and that the VVitneſſes are not able to come to the place; or otherwiſe by order of *Court*; and then the *Commiſſion* is to be opened by a Maſter, and to be conſidered of; and afterwards it may, if the party will exemplifie it, by order of this *Court*, be given in evidence in any other *Court*.

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These Depositions thus taken, shall not be made use of to be given in evidence against any other but the Defendant who was warned to defend it, his Heirs or Assignes, or some other claiming by or under him, by some interest which accrued to him after the Bill preferred. *Tothil*, 189, 190. 191, 192.

Where both Plaintiff and Defendant have examined what Witnesses they please, and are ready to go to hearing, there either of them must first give the other a Rule for Publication: which Rule being expired, and no cause shewn to the contrary, then Publication passeth. After which, neither party can examine Witnesses, unless it be by special order of the Court; which will not be granted without an Oath made, that the party which requireth the same, nor any of his Counsel, or Sollicitor, have seen, read, or been made privy to any Examinations of any the VVitnesses formerly examined in that cause, by either of the parties; and thereupon some good cause be shewn, either by Oath or Certificate of Commissioners, why the party could not get his said VVitnesses examined within the time limited for their examination: in which case sometimes the Court giveth liberty to examine VVitnesses by a time prefixed; with this *Proviso*, that the party shall not in the mean time see any of the said former examinations.

After Publications is had, the Plaintiff, or if he neglect, the Defendant, may procure a day of hearing of course to be set down by his Clerk at the end of the Term, when either the Lord Chancellor or Master of the Rolls do set down causes to be heard.

The days must be set down according to the priority of Publication; neither must any cause be presented for hearing, the same Term that Publication passeth.

All Process to hear Judgement must be returnable six or seven days before the day of hearing, except it

it be in the beginning of the Term, when the time will not bear it: and the Writ must have on the back of it the very day of hearing; at which day, if the Plaintiff do not appear, the Defendant is to be dismissed with costs. *Caryes* Rep. 45.

SECT. VI.

OUr Sollicitor having thus far with diligence managed his Clyents business, and brought his cause to a hearing; the next point of his care will be to get the Decree drawn up; which should be done as short as with conveniency it may, and not recite the Pleadings at large, but the sum thereof briefly. And if it be made before the Master of the Rolls, or any of the Judges, it ought, being drawn, to be first signed by them, and afterwards by the Lord high Chancellour, and then it must be inrolled; which Signing and Inrolment ought to be done before the first day after the next *Michaelmas* or *Easter*-Term after the making of it.

Where the Decree concerns Lands or Leases, it must be entred in the Registers Docket-book, within six months after the making of it; otherwise it shall not prejudice the Purchaser of the Land: neither indeed shall any Decree be binding to any but those who are served with Process *ad audiendum Judicium*, or that did appear *Gratis*.

The Purchaser that comes in by Conveyance *bona fide* from the Defendant before the Bill be exhibited, and that is no party by Bill or Order, shall not be bound up by any Decree. But where a man becomes a Purchaser, *pendente lite*, and without any colour of privity, or allowance of this Court, there it shall regularly bind him: yet in such case, if there have bin any intermission of the suit, or the Court be acquainted with the Conveyance, then the Court is to give order and direction in it.

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No Decree made by the Court can be croſſed, altered or explained upon a bare petition only; and yet thereby for ſome ſpecial Reaſons may be ſtayed for a while till it can be moved in Court.

A *Decree* once inrolled, cannot be reverſed or altered but by a Bill of Review, unleſs it be in caſe of miſ-caſting, where the Caſe is demonſtrative; and then it may be done by Order.

A *Decree* will bind the perſon of a man: for where any do refuſe to obey it, the Court will impriſon them till they conform. It binds all the rights and titles to Lands and Goods: for the Court by Order of Sequeſtration and Injunction will diſpoſe of the poſſeſſion thereof for ever to him whom the Court judged the right to belong in conſcience.

Where a *Decree* is to be made upon a pretence of Equity againſt the Judgment of another Court, that Judgement is firſt read; and then the *Decree* is not to vacate the Judgement, but to order the unreaſonable party.

The *Decree* being thus obtained, our Sollicitor may ſomtimes meet with ſtubborn and perverſe people: it is moſt requiſite therefore that he be inſtructed how the Court doth uſe to enforce Obedience to their *Decrees*, and to puniſh the breach of them; that ſo he may the better know which way to take to procure the Court to do the ſame in his Clyents behalf: and that is to be obtained thus.

Firſt, he muſt ſerve the party with the *Decree* it ſelf, under the Seal of the Court: and if he yeild not obedience thereunto, but ſtands obſtinate, then proceed to take out all the Proceſſes of contempt againſt him one after another: and the party being taken, will be ſtraightly impriſoned, and not ſet at liberty till he yeild obedience to it; that is, that he performe that part of the *Decree* which is preſently to be done, and

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give ſecurity to perſom the other part which is to be done in the future. Alſo the Lord Chancellor may for his contempt fine him what he pleaſe, and afterwards the ſame may be eſtreated.

VVhere the Decree is for Land, and the party remains obſtinate or wilful after his impriſonment, the Court upon motion will grant an Injunction for the poſſeſſion: and this being diſobeyed after it is ſerved, and Oath made thereof, the Court in that caſe will grant a Commiſſion to ſome Juſtices; and if need be, a Writ of Aſſiſtance to the Sheriff to put him in poſſeſſion. *Caryes* Reports 23, 34, 36, 37. *Tothil*, 55, & 57.

Where this Injunction is granted for poſſeſſion of the Land, and the party ſits out all Proceſs of contempt, and cannot be found by the Serjeant at Arms, or make a reſcue; there the Court being by Oath upon motion informed thereof, will grant a Sequeſtration of the Land. *Tothil.* 107. And this Sequeſtration is granted ſometimes as well of the Goods, as of the Profits of a mans Land; and that for his wilfulneſs in ſtanding out in contempt, and diſobedience to the Court, as well where it is for diſcharge and payment of Debts and Duties, as where the Decree is for payment of a ſum of money, *Tothil.* 175, 176.

SECT. 7.

IN caſe of contempts upon force, or ill words uſed upon any that ſerveth Proceſs, or other words of ſcandal to the Court; if they be proved by Affidavit, the party forthwith upon motion will be committed, if the words ſpoken deſerve it.

For other contempts againſt the Orders of the Court, take in ſhort as followeth. Firſt, an Attachment goes forth upon Affidavit made of the contempt; then the party being taken, is to be examined upon Inter-

Interrogatories; which is many times upon motion referred to one of the Masters of the Chancery.

The Contempter coming in *Gratis*, or upon Process, should give notice to the Clerk of the other side of his appearance: and if there be not Interrogatories put in within eight days; or being examined, if no reference be of the Examination, nor Commission taken out of the other side, or Witnesses examined to prove the contempt in a month; the Contempter shall be discharged, and shall recover costs, to be taxed by a Master without any motion. But if after he have appeared upon the contempt, he depart unexamined, he must stand committed till he be examined and cleared; and if it be found, he must clear it, and pay costs ere he be discharged.

Such as stand committed for contempts upon Attachments, or Commissions of Rebellion, must enter into bond to attend from day to day, and not to depart without leave of the Court. *Caryes* Rep. 9, 44, 70, 71, 82.

Imprisonments upon contempts for matters past, may be discharged *ex gratia*, after sufficient imprisonment; or it may be otherwise dispensed withal. But where the imprisonment is for non-performance of any Order of the Court in force, then the person so in contempt ought not to be discharged except he first obey; only the Court may dispense with the contempt for a time.

After all this, and a Decree performed, or else the party in prison for non-performance, as aforesaid; yet ought our Sollicitor to understand, that his Client for all this may be a great way off from an end: for upon performance and obedience to the Decree, a Bill of Review may be brought. At the putting in of which, the party that prefers it must enter into a Recognizance with Sureties for the satisfying of costs and

damages for the delay, if it be found againſt him.

VVhere a Cauſe is diſmiſſed upon full hearing, and the diſmiſsion ſigned and enrolled, it cannot be retained again but by a Bill of Review; and that in ſome ſpecial caſes too: For

No Bill of Review is grantable but upon error in Law, appearing in the body of the Decree it ſelf, without averment or further examination of any matter or fact which might have been had at the time of the Decree, unleſs he ſhew ſome new matter which hath riſen in time after the Decree, whereof the Plaintiff could not have advantage before; and then upon Oath made that there is a diſcovery of ſuch new matter, this Bill (by the leave of the Court) may be exhibited, giving ſecurity as before.

Where the Decree is to yeild the poſſeſsion of Land, deliver VVritings, or to pay money, he muſt firſt perform that before a Review: but if the Decree be to extingniſh a Right; convey Land, releaſe a Debt, acknowledge ſatisfaction, or to cancel Records or Evidences, or the *like*, it may be ſtayed by the Courts order till the Bill of Review be determined.

No VVitneſſes which either were or might have been examined upon the former Bill, ſhall upon this Bill of Review be examined to any matters. *Tothil.* 173.

SECT.

CHAP. V.

Shewing our Sollicitor ſeveral other incidents which he ought to be skilled in, and much relating to his Practice.

HAving now in the former Chapter, and the ſeveral Sections thereof, paſſed through the general proceedings of the Chancery upon Bills, Anſwers, and all other things, even to the Decree and Review thereof; there are yet ſome things remaining, which in many caſes are not onely incident, but even eſſential to thoſe affairs wherein our Sollicitor ought to be particularly skilled. And the firſt of theſe is concerning Injunctions.

And this is looked upon in the general Acceptation, as a main and chief branch of the power of the Court, for that it makes ſtay of Proceedings at Common Law; and as before is ſaid, is many times granted to gain poſſeſſion or Land, and ſo becomes ſubſequent to the Decree.

VVhere it ſtays proceedings at Law, in ſome caſes it gives leave to go to tryal and judgement, but ſtays execution; and where the matter of Law is tryed, it bars them from judgement, as the cauſe may be.

Or where there is a Judgement, and that executed, it will ſtay the money in the Sheriffs hand, after the party is arreſted at Law for money.

This Writ is commonly procured either upon ſome VVriting or matter of Record plainly appearing, or upon a very old debt that hath long ſlept, Creditor and Debtor being both dead: or in ſuch caſes where the Defendant doth not appear, but ſits an *Attachment*;

or if he appear, either anſwers not the Bill, or confeſſeth ſo much thereof as is ſufficient.

Where either the Defendant is beyond the Sea, or being in the Kingdom doth abſent himſelf, ſo that he cannot be ſerved; or where upon any pretence he hath gotten time to anſwer; the Court doth uſually in thoſe caſes upon motion, grant an Injunction to ſtay ſuit till the Defendant doth appear.

Where a Commiſſion is granted to take an *Anſwer* in the Country, an Injunction upon motion will be granted to ſtay the Defendants ſuit at Law (if any be) till the *Anſwer* come in: and of this the Defendant is bound to take notice, though he be not ſerved therewith.

Where there is a Verdict at Common Law in an *Action* of Debt, and a Bill be afterwards here exhibited for relief, the money muſt be depoſited in Court before an Injunction can be obtained, unleſs in ſome caſes, where ſome ſpecial matter in equity appears by the Defendants *Anſwer*, or in ſome former Decree.

Where a perſon priviledged in this Court is ſued elſewhere, that ſuit may be ſtayed by an Injunction.

Where Timber is unjuſtly felled, ancient Meadow-ground plowed up, ancient Paſtures that have not been plowed up in twenty years before, or for the Maintenance of Incloſures kept in twenty years before, an Injunction is grantable according to the caſe.

Where an Injunction is granted to quit a poſſeſſion, it is granted of Houſes and Land only, and not of a Rent, or ſuch like thing: and it is not to be granted before the hearing of the cauſe, unleſs upon an Oath, that the Plaintiff was in poſſeſſion at the time of the Bill put in; and then onely of that poſſeſſion he had then and three years before, and at the time of the motion, and not to be extended to the poſſeſſion of

thoſe

thoſe from whom he claims. And this ſhall not hinder the Defendants ſuit in Law, making of a Leaſe, taking of a Diſtreſs, *&c.* And this Injunction will ſoon be diſſolved again, if the Plaintiff delay his ſuit.

Where it is to ſtay or remove a ſuit by *Certiorare*, Bond muſt be firſt given that the Bill hath matter ſufficient in it to bear it, and ſhall be proved true within fourteen days after he hath the VVrit; and if it be not done in that time, after Certificate of his neglect from the Examiners, it ſhall be diſmiſſed with coſts, and a *Procedendo* granted.

Where the Injunction is to be obtained by motion for matter in the Anſwer, there the caſe muſt be put in writing to the Court.

VVhere it is granted upon the merit of the cauſe, or upon ſpecial cauſe in equity, it is to ſtand till the hearing, unleſs the Plaintiff delay his ſuit.

This VVrit thus obtained, muſt be ſerved either on the party himſelf, his Counſel, Attorney or Sollicitor, *&c.* as the caſe requires; and the manner of ſerving is much like to that of ſerving a *Subpœna*.

A bare petition only will not diſſolve an Injunction; nor if it be had by motion, can it be diſſolved without a motion of the adverſe party.

Where an Injunction is granted till the Anſwer be put in, and no order be made to continue it within fourteen days after the Anſwer come in; in this caſe it ſhall be diſſolved upon the Regiſters Certificate thereof only. And if no motion be made that Term, or at the next General Seal after the Term, to continue it for inſufficiency of, or matter confeſſed in the Anſwer; it is of courſe diſſolved: ſo where it is to ſtay a ſuit at Common Law, and the Plaintiff doth not proceed for three years together.

Where the Injunction is diſobeyed, (if you would force obedience thereunto) upon Oath made thereof,

all the Proceſſes of Contempt are to go out againſt him one after another; and being taken, he is to be impriſoned till he yeild obedience to it, or give ſecurity to do it. Nor is he to be heard in the principal caſe, till he yeild obedience in every thing to the Injunction. *Tothil.* 107. *Cayes* Rep. 112, 113.

SECT. 2.

ANother material point is about Diſmiſſions, and how they are to be managed and attained. Concerning which, he is to know, that this is prayed by motion, and had upon Plea to the Bill or at the hearing of the Cauſe; but not after examination of Witneſſes before hearing, but upon a diſcontinuance of proſecution, and then by motion and order.

Where the Plaintiff diſcontinues his Proſecution, after all the Defendants have anſwered by the ſpace of two Terms, the cauſe is to be diſmiſſed the third Term upon courſe: but after a Replication put in, it cannot be diſmiſſed without an Order upon a motion.

Where a Cauſe is diſmiſſed upon a full hearing, recorded and certified by the Lord Chancellor, it cannot be again retained, nor a new Bill admitted, but where there is new matter.

Where the Bill is duly diſmiſſed of courſe, or by order, no motion will be heard to retain it, till the coſts aſſeſſed upon the diſmiſſion be paid, and certified from the Clerk on the other ſide that it is done.

No diſmiſſion, or retainer upon a diſmiſſion will be granted on a bare petition onely.

In caſes of diſmiſſion not upon a full hearing, to a new Bill this may be pleaded.

But generally for all cauſes of diſmiſſion the Court will retain and diſmiſs it as they ſee cauſe, as daily pra-

practice and experience doth plainly manifeſt. See *Caryes* Rep. 34, 43, 74, 76, 110.

SECT. 3.

A Third point much and frequently incident to Practice, are References to the Maſters of the Court, and their Reports thereon: which happen upon ſeveral occaſions: As,

Where there is a Demurrer to the Juriſdiction of the Court, there no Reference may be had to a Maſter upon it, but it muſt be heard before the Lord Chancellor himſelf.

After examination of Witneſſes is paſt, there can be no Reference had to a Maſter to end and determine, unleſs it be in caſe of near kin, poverty, or conſent of parties.

A Reference of the ſtate of the caſe is ſparingly granted, unleſs where there is the conſent of parties. The examination of Court Rolls is to be by Reference; but there it muſt be by two Maſters at the leaſt.

No reference ſhall be made of the inſufficiency of an Anſwer, without Allegation of ſpecial cauſes. The reports of the Maſters upon References, muſt not exceed the order of Reference, whereby the ſame is referred. And after the Maſter hath ſeen the order, he uſually grants out a Warrant, which is ſhewn unto the other ſide, whereby he gives notice of the time of his hearing the Cauſe; where the other ſide with their Counſel or Sollicitor, or both, may as they ſee cauſe attend.

The Report it ſelf is uſually brief of what only they finde; wherein the Maſter ought not to certifie his own opinion, but leave the ſame wholly to the judge-

ment of the Court: and if the Cauſe be very doubtful, then muſt he ſet forth the ſpecial caſe.

No order can be had to confirm the Report, till it be firſt filed with the Regiſter, under the Maſters hand, and a day given to the other ſide for ſeven days at leaſt to ſpeak to it in Court. But where it doth not ground a Decree, and it be poſitive, it doth uſually ſtand, and proceſs may be taken out for the performance there, unleſs the adverſe party upon notice thereof do within eight days after, (if it be in Term-time) or if at the General Seals for motions, or if after them, within four days of the beginning of the next Term, file exceptions to the ſame. And in ſuch caſe the party that ſo filed exceptions, muſt depoſite forty ſhillings with the Regiſter, and a day will be ſet for the Judgement of the Court: and if the Court do not allow the exceptions, the other ſhall have the forty ſhillings, and what more the Court ſhall think fit: if otherwiſe, the money is to be reſtored.

The matters chiefly under Reference, are either inſufficient Anſwer, matters of account, contempt, or abuſe of the Court.

Where a Maſter upon a Reference to him reports an Anſwer inſufficient, the Complainant may take out two *Subpœna*'s againſt the Defendant, the one for twenty ſhillings coſts, and the other to make a better Anſwer.

SECT. 4.

THere are many occaſions intervening in a cauſe, which do require a motion to ſet them right: now every motion procures an Order, (now it behooves our Sollicitor not to lead his Clyent into unneceſſary and chargeable motions) and every Order muſt be drawn by the Regiſter who ſat then in Court, and

and took Notes thereof (when the ſame was pronounced) into his Book; by which, to draw up ſome more full remembrance of that which paſſed in Court. Which that it may the better be done, our Sollicitor after the riſing of the Court, ought to repair to the Regiſters Office; and there finding the Notes, and ſhewing them to the Regiſter or his Clerk, to have inſtruction for the drawing up of the ſaid Order for his Clyents better advantage.

Where any Order ſhall be made, and the Court not informed of the laſt material Order formerly made, no benefit ſhall be taken by ſuch Orders, as being ſurreptitiouſly procured; and therefore the Regiſter doth always mention the laſt former Order, in the Order that he draws up at preſent.

An Order made out of the general Rule, muſt ſet down the ſpecial Reaſons of it.

No Order ſhall be explained by Petition, but by publick motion, both parties being heard

No Order but final Orders and Decrees may be received to be entred after eight days after the pronouncing thereof, that day being included.

The Regiſter is to keep Copies of the Orders he doth deliver, and he is to mark the ſame; which done, it is to be entred by the entring Clerk, and ſo brought back again to the Regiſter for his hand to be put to it, and then it is authentick.

The Regiſter after a hearing and reference to a Maſter, is to ſet down in the Order of Reference what was the Opinion of the Court, unleſs the Court do direct it to be drawn otherwiſe.

All Orders drawn up by the Regiſters, are to be entred under the Regiſters hand in due time; and after they are once ſo entred, they may not be in any manner, upon any occaſion whatſoever, altered, without a ſpecial Order and direction of the Court to that purpoſe.

It

It was an ancient piece of practice, but I think now almoſt ſuper-annuated, that the Regiſter within ten days after the end of every Term ſhould certifie the Lord Chancellor, or Lord Keeper for the time being, what References depend in the hand of any Maſter, and how long they have depended; that ſo if any of them have depended over-long, the Court may require an account thereof from the Maſter, and quicken him to a ſpeedy diſpatch.

SECT. 5.

IT doth often fall out, that ſome perſons may have right to an Eſtate, yet not wherewith to proſecute the ſame; or elſe may be made parties to a ſuit, as knowing much therein, yet have not wherewith to make either a defence or diſcovery: in ſuch caſes the party making Oath before a Maſter of his poverty, and exhibiting the ſame either to the Lord Chancellor or Maſter of the Rolls, together with a petition, they, or one of them, will admit him to ſue *in forma pauperis*, and aſſign him ſuch Counſel, Six Clerk, *&c.* as he ſhall deſire.

But here it is neceſſary for our Sollicitor to know, that there are many Paupers who bring onely vexatious ſuits; which if he can diſcover, and inform the Court thereof, they ſhall not only be diſmiſt, but puniſhed: however ſuch thing be made appear, the Counſel and Clerk aſſigned as aforeſaid, may not refuſe, but muſt attend their buſineſs, unleſs they ſhew cauſe to the Court why they cannot ſo do.

They muſt always have their order of Admiſſion with them, and firſt move that before any other motion: and indeed it is no hindrance at all to them; for if they have any other motion, they may make it afterward.

Where

Where the Regiſter findes he is not in Pauper, he ſhall not draw up any Order upon the ſecond motion, but the Pauper pretended ſhall loſe the fruit of it.

No Counſellor, Attorney, Sollicitor, or Officer of the Court appointed to be for a Pauper by the Court, is to take any thing of, or contract for any thing with him: and the Pauper that can be proved ſo to have given or contracted, is to be diſpaupered for ever.

If a Pauper ſell or contract for his ſuit, or any part of it, his Bill ſhall be diſmiſſed, and never after retained.

No Proceſs of contempt ſhall go out for a Pauper, until it be ſigned by the Six Clerk who dealeth for him; and he muſt ſee there be cauſe for it.

In all Offices where he hath any occaſion to paſs any thing, he muſt ſtill ſhew his Admiſſion.

Touching Petitions: for the avoiding the multitude of frivolous ones drawn by perſons who are altogether ignorant of the practice and courſe of the Court, and the true ſtate of the Petitioners buſineſs, it were to be wiſhed that none but able Sollicitors, ſuch as are deſcribed before, both for Learning and Parts; and not every broken fellow, that can ſcarce write his name, be allowed by the Court to practice, as is before mentioned, *Pag.* 17.

SECT. VI.

ANother thing fit for our Sollicitor to know, is, the matter of Affidavits, and how they are to be made, that they may be effectual. You muſt know then, that Affidavits are moſt generally made before Maſters of the Chancery: but where it is for the ſerving of a *Subpœna*, they are ſometimes taken and certified by others.

An Affidavit may not be taken againſt an Affidavit: for

for if it be, the latter is not to be used.

An Affidavit ought not to be taken tending to the proof or disproof of the matter in question; nor may any such matter be admitted to be colourably inserted into an Oath made of the serving of Proces. *Carys* Rep. 63, 69, 81, 82, 84, 85, 98, 99, 103.

There is also another point fit for our Sollicitors knowledge: for many times there may be some one belonging to the Court, who is thereby a priviledged person, by which means he cannot be sued for debt. In such case, and against such a person so priviledged, a Declaration for debt, or any other thing whereof the Court holdeth Plea, is to be delivered to one of the Six Clerks, whom the Plaintiff maketh as his Attorney; and he thereupon giveth a day (as it is commonly termed, which is a week, *viz.* the whole next Return) to the Defendant to answer: which day entred into the Six Clerks Costs-book, (in this manner, *Roberts* against *Johnson*) a day is given from the day of St. *Michael* in one month, in a Plea of Priviledge.

Day being thus given, the Declaration under the Attorneys hand is sent over to the Petty-bag by one of the said Attorneys Clerks: which Declaration is briefly entred by one of the Clerks there, and likewise the day that is given to the Defendant to answer in a Roll there, which is called *Rotulus rememorationis Parvæ Bagæ*: at which day, by the course of the Common Law, if the Defendant plead not, he is fore-judged the Court. But of late the course hath been to allow the Defendant a day of Imparlance: that is, day till the next Return after the Return given him to answer; which is in this manner.

The Defendant retaineth one or other of the Six Clerks, who imparleth for him, which is done in the Six Clerks Costs-book, (in this manner, *Roberts* against

gainſt *Johnſon*, Imparlance until the morrow of *All-ſouls*) at which day it is ſent over into the Petty-bag, to be entred into the aforeſaid Roll, next under the ſaid Declaration.

The ſaid day of Imparlance being paſt, another day, *viz.* commonly five days in a week, (which is commonly called the Peremptory day) is given by the Plaintiffs Attorney, and entred into the Petty-bag, as aforeſaid, to the Defendant to plead, or elſe Judgement is to be entred againſt him.

If the Defendant plead, his Plea is delivered by his Attorney to the Plaintiffs Attorney; and then if the Plaintiff will proceed to a Tryal, he is to joyn up the Iſſue, (if he may, for in ſome caſes he cannot) or elſe the Plaintiff is to reply, and give the Defendant a day, *viz.* a whole Term to joyn up Iſſue, which is given and entred as the day to anſwer; and if the Defendant by that day joyns not up the Iſſue, Judgement is entred up by *Nihil dicit*. Here note, that after a Peremptory day given, the Defendant cannot pray Oyer of the Bond and Condition, or ſuch-like, as of late hath been uſed for meer delay; but if the Iſſue be joyned up, either by the Plaintiff or Defendant, then is the Record made up, and the ſame with a *Venire facias* is ſent into the Kings Bench to be tryed, as an Action there at Iſſue; and upon Judgement there, execution is thereupon there awarded.

But if the Defendant refuſe or neglect to imparle at the day given him to anſwer or plead (for he may plead if he will) at that day, then is Judgement entred againſt him, and execution is awarded.

Upon Judgement either by default or *Nihil dicit*, ſome of theſe Writs of Execution are awarded. If for debt, the Plaintiff may have an *Elegit*, by *Weſtminſt.* 2. *Cap.* 18. or elſe a *Levari facias*, or *Fieri facias*: and if the Plaintiff cannot levy his Debt and Damages, then

then he shall have a *Capias ad satisfaciendum*, either for all, or so much as resteth unsatisfied.

The Judgement being satisfied, the Plaintiff by himself or his *Attorney* (if the Defendant desire it) doth acknowledge satisfaction upon the Judgement in the Petty-bag Office.

It is to be noted, that whatsoever day is given by any of the Six Clerks, and by them entred in their Book, is yet worth nothing, if the same be not entred in the Petty-bag.

This is the course used against a person that is priviledged by a Forrainer: but if a Forrainer be indebted to a priviledged person, or incur a suit, then you must observe this course that followeth.

The Defendant being arrested by an *Attachment* of Priviledge, at the suit of a priviledged person, as aforesaid, must retain one of the Six Clerks to his *Attorney*, and must put in Bayl to the Plaintiffs *Action*, according to the course of the Court; which is, to appear from day to day until the Plea be determined, to satisfie the Plaintiff all such sums of mony as the Plaintiff shall recover against him by reason of this suit: then the priviledged man putteth in his Declaration, and thereupon the Proceedings are the very same as before against the priviledged man.

By the course of the Court the Defendant is to put in four Subsidy-men, or sufficient Sureties (be the *Action* never so small) as appears by *Archibald* and *Burials* case, 23 *Eliz.* wherein the Defendant is bound in 400 *l.* the sum of the *Action*, and every Surety in a hundred pounds.

If Judgement be given for a priviledged person in this Court, he may if he will take out Execution as before: but if he will not, then he may take out a *Scire facias* against the Defendant and his Manucaptors upon the Bayl: whereupon if Judgement be upon the said

Scire

Scire facias in the Chancery, then Execution is there awarded; but if upon Iſſue joyned and ſent into the Kings Bench, and upon Tryal there, Judgement be given, then is Execution there awarded: and upon ſatisfaction of the Debt and Damages, the Bayl is to be diſcharged upon the acknowledgement of ſatisfaction, as before is mentioned againſt the priviledged perſon.

If either the Plaintiff or Defendant upon Declaration of Priviledge or *Scire facias* demur in Chancery, the Demurrer being joyned, a day is ſet down by the Lord Chancellor or Lord Keeper for the arguing thereof before him. And if upon the Argument it fall out to be a *Reſpondeas ouſter*, then Judgement is entred thereupon: and if it be againſt the Defendant then Execution is awarded; and if againſt the Plaintiff, then it is that *Nil capiat per Billam*, that he take nothing by his Writ or Declaration.

But if it be a *Reſpondeas ultra*, then is the Defendant to pay coſts, and a day given for him to plead peremptorily, or Judgement to be entred.

Thus have I quite gone through the whole practick part wherein our Sollicitor ought to be verſed: I ſhall in the next place give you a Table of Fees; which in regard he may in dealing for Clyents have occaſions for frequent diſburſements, I think it very neceſſary: which are in ſhort theſe, and ſhall make one entire Section, and the laſt of this Chapter.

SECT.

SECT. 7.

A Table of Fees.

	l.	*s.*	*d.*
FOr all first, second, or other Copies of all Bills, Answers, and other Pleadings whatsoever; as also of all Certificates and Examinations, made or taken by vertue of any Commission out of this Court, and of Interrogatories therewith returned; and also of all Declarations or Proceedings by English Bill, or according to the course of the Common Law; and for Copies of Records, Rolls or Evidences brought in to be copyed, or remaining in the said Court; for every sheet of paper containg fifteen lines	0	0	8
For the inrolling all Warrants, where by any Patents, Commissions, Licenses, Pardons, Leases, or other Grants whatsoever, do pass by and under the great Seal, after the rate of every Skin so passing the Great Seal	0	2	0
For the inrolling of all Warrants for Commissions of the Peace or Gaol-delivery, for a liberty of *Oyer* and *Terminer*, for Pyracies, for the preservation of the Game of Swans, and for Commissions for enquiry sued out for the benefit of any private person; for every of the said Commissions	0	1	8
For the inrolling of all Warrants for all Commissions of *Appeal*, and for the *Admiralty*, for every one of them	0	0	4

For

	l.	*s.*	*d.*
For the inrolment of every VVarrant, for every ordinary Licenſe or Pardon of *Alienation*	00	03	04
But if the ſame be of more then ordinary length, then according to the length, after the rate of ten ſhillings the Skin, and not above	00	10	00
For inrolling all VVarrants for all Commiſſions in the nature of VVrits of *Diem clauſit extremum*, *Mandamus*, *Idiota probanda*, *Lunatic' inquirend'*, *Melius inquirend'*, for every of them	00	03	04
For inrolling the VVarrants for every Patent or Grant of the Cuſtody of any VVard	00	08	08

But this of VVards I ſuppoſe now to be of little uſe, in regard all manner of VVardſhips are quite taken off, by a Statute made in the 13 of King *Charles* 2.

For inrolling the Warrant for every Preſentation, Donation or Revocation to any Rectory, Vicaridge, Deanry, Archideaconry, Chancellorſhip, Treaſurerſhip, or dignity to any Metropolitical, Cathedral or Collegiate Church, or for any Canonſhip or Prebend in any of the ſaid Churches, or for the Maſterſhip in any Hoſpital or Eccleſiaſtical Living, or for the Grant of any preſentation or Preſentations, *pro unica vel pluribus vicibus* thereunto	00	03	04
For the inrolling of the VVarrants for every *Mandamus ad Inſtalland'*	00	03	04
For the inrolling of all VVarrants for all VVine-licenſes, for every life	00	03	04

	l.	s.	d.
Or such Fee not exceeding that proportion as by the Chancellor shall be set down: though formerly they paid if it were granted for three lives but-	00	05	08
For the inrolling Warrants for every Pardon or Outlary	00	03	04
For inrolling Warrants for every Denization or Commission of Bankrupts	00	03	04
For Writing of every exemplification, as well of Records in the Tower, as of any Record whatsoever, after the rate of every Skin	01	06	08
The Six Clerks Fee of every Clyent for every Term whilest his cause dependeth undetermined by Decree or by Dismission, the Termly Fee of-	00	03	04

And so if there be twenty Plaintiffs in one Bill, they all pay but one Fee for one Term.

But for every three Defendants, reckoning the Husband and Wife but one person, there is due for their first appearance	00	03	04

And upon the first appearance, if every Defendant appears severally by himself, he is to pay the Fee of three shillings four pence; but every Term afterwards, during the continuance of the Cause, there is only the Fee of three shillings four pence the Term to be paid for all the Defendants that did appear in any Term or Vacation in the same Cause.

For a Writ of *Subpœna* to answer	00	02	06

	l.	*s.*	*d.*
If there be three in the Writ, you pay more	00	00	06
For an *Attachment*	00	02	10
For breaking it up with the Sheriff, and his warrant thereon.	00	02	04
For the return of the Attachment	00	00	04
For a Proclamation of Rebellion	00	02	10
Breaking it up, and Warrant	00	02	04
The Return	00	00	04
For a Commission of Rebellion	00	18	02
For the Inrolment of every *Liberate* and *Allocate*	00	03	04
The Rule which the Plaintiff gives the Defendant to make answer by a day when the Defendant appears	00	00	04
For each Rule for Publication after Examination of Witnesses	00	00	04
For entring them with the Register, for each	00	00	04
The Defendants appearance	00	04	00
In which is included the Clerks Fee for the Term.			
For the Oath made that the answer is true	00	01	00
And for every Defendant, if they be never so many.			
For a Commission to take an answer in the Country by *Dedimus poteſtatem*	00	07	10
Beſides the ingroſſing of the Bill, which is included in it, every ſheet	00	00	06
For a *Subpœna* for coſts, where the Bill is not put in by the Complainant within the time limited	00	02	06
For a Bill of coſts, and the entry of it	00	02	04
For a Joynt-commiſſion to examine Witneſſes in the Country	00	07	10

	l.	*s.*	*d.*
The Plaintiff payes the Defendant	00	05	08
For the Examination of every Witneſs here before the Examiners	00	02	06
For the Oath of every Witneſs that is to be examined	00	01	00
For the Copies of Depoſitions returnable by Commiſſion	00	00	08
For the Copies of Depoſitions taken in the Examiners Office, for each ſheet	00	01	00
For the drawing up of an Order upon motion to the Regiſter, for the firſt ſide	00	03	00
For every other ſide	00	01	06
For entring of the ſame Order, every ſide	00	00	06
Fees of an Injunction in all	01	02	06
If it be granted by the Maſter in the Rolls, then you pay two ſhillings more.			
For *Subpœna* to rejoyn	00	02	06
For a *Subpœna ad audiendum Judicium*	00	02	06
For a *Subpœna ſuper ordinem* to ſhew cauſe	00	07	02
For a *Subpœna ducens tecum*	00	07	02
For a *Subpœna de executione ordinis*	01	00	00
For the Copy of Replication, Rejoynder, Sur-rejoynder, Rebater, and Sur-rebater, as for Bill and Anſwer.			
Fees for a Decreral Order drawing up, as in another Order; only for the word *Decree* you muſt pay more	00	18	06
For every Writ of execution of any Order	00	06	08
For drawing and inrolling every Decree and Diſmiſſion reſpectively	00	03	04

For

	l.	*s.*	*d.*
For every VVrit of Execution upon any Decree, after the rate of every Skin	01	06	08
For writing of every Sheriffs Patent, VVrit of Assistance, VVrit of Discharge, Commission to take the Sheriffs Oaths, the Warrant of *Attorney*, and writing the two Oaths, and the Clerks Fee	01	02	08
For every *Supersedeas* for the discharge of any Commission, or other VVrit made in the Six Clerks Office	00	06	08
For every *Supersedeas* of Priviledge	00	06	08
For every Special *Certiorare*, or *Procedendo*, *Corpus cum causa*, or *Habeas Corpus*	00	06	08
For every Bail upon every Writ of *Corpus cum causa*, or nature of priviledge	00	02	09
For all manner of *Certiorare's* and *Procedendo's* of course	00	02	09
For every Recognizance or Bond made in Court	00	02	00
For every Oath before a Master	00	01	00
For every Report, though never so small, ten shillings, and the Clerk five shillings; and if it be longer, then more.			
For filing every *Affidavit*	00	06	08
For filing every Report, the like.			
For the Sollicitors Termly Fee	00	06	08
And for every attendance in Court on References	00	06	08

CHAP. VI.

How to enter into and sue out a Recognizance in Chancery.

IF any man would take security for a Debt, or any other thing by way of Recognizance, which is a very good assurance, the way to enter into it, is; first draw up your Recognizance, the form whereof for your better instruction is here inserted.

A Recognizance in Chancery.

R. *B. de. G. in Parochia de R. in Comitat. S.* Yeoman, *coram Domino Rege in Cancellar. suo personaliter constitut. Recogn. se debere N. M. civi & S.* London *centum libr. bone & legalis monete Angliæ; solvend. eidem N. M. aut suo certo Attorn. Executor. Administrator. vel Assign. suis, in festo Sancti Johannis Baptistæ* (or what time is for the payment of the mony agreed upon) *post dat. hujus Recognitionis: & nisi ita fecerit, vult & concedit, pro se, Hered. Executor. & Administrat. suis, quod dicta summa centum libr. levetur & recuperetur de Manneriis, Messuagiis, Terr. Tenementis, Bonis, Catall. & Hereditamentis ipsius R. B. Hered. Executor. vel Administrator. suorum ubicunq; fuerint invent. per presentes, ad solum opus & usum præfat. N. M. Executor. vel Administrator. suor. Teste dict. Dom. Rege apud Westminst. 21 die J. Anno Regni Dom. nostri Caroli secundi Dei grat. Angliæ, Scotiæ, Franciæ & Hiberniæ Regis, fidei defensoris, &c. sextodecimo, Annoq; Dom. 1664.*

The Recognizance being thus drawn, the party who is

is to enter into the ſame, muſt go before one of the Maſters in Chancery, and there acknowledge it, and the Maſter will ſign it; for which you muſt pay two ſhillings: then carry your Recognizance to a Clerk in the Inrollment-Office, and there you ſhall have it inrolled: but you need not inroll it unleſs you pleaſe, but within 12 months after the acknowledgement.

If afterwards you would ſue out a Recognizance that is taken here, then follow theſe directions.

Inſtructions how to ſue out a Recognizance taken in Chancery.

You are firſt to bring a Copy of the Recognizance to one of the Clerks of the Petty-bag; and thereupon (if you will) he will make you out two Writs of *Scire facias*; one of a Return paſt, and the other of a Return to come. Theſe VVrits you muſt deliver to the Sheriff of *Middleſex*, who will return them, as in this caſe the Law injoyneth him to do.

And when you have your VVrits returned, you are to carry them again to the Petty-bag, and retain one of the Clerks there to be your *Attorney* hereir.

And then give the Defendant a day to appear; which if he do not accordingly, a Judgement is to be awarded againſt him for his ſaid default: and if the Defendant do appear by the day to him ſo given, then is the Plaintiff to declare againſt him by his ſaid Attorney, and he the Defendant is to anſwer and plead to the Plaintiff here as is uſual in the Courts of Common Law. And when you are at full iſſue, you are at the furtheſt of your proceeding in Chancery: for then if you proceed to Tryal, you muſt have the whole proceeding in this Office written into Parchment; and it muſt either be ſent by the Officer of the Petty-bag ſealed up, to be tryed in the Kings Bench or Com-

mon Pleas (which you will) or else it may be delivered over unsealed by the Lord Keeper or Lord Chancellor, which is agreeable with the words *se propria manu*, &c. for there can be no Tryal by Jury in Chancery.

CHAP. VII.

The way how to sue out a Statute-Staple forfeited in Chancery.

THe way of proceding in this Case is, to go first to the Clerk of the Staple, and shew him the date of your Statute, when it was acknowledged; which will appear by the Statute it self.

And then the Clerk of the Staple will make your Certificate thereupon, and seal it up; the which carry to the Clerk of the Crown, and get him to make the Exigent therein.

And then deliver your Certificate to the Clerk of the Crown, and have then your Obligation made, and your Extent to be made and indorsed on the backside.

This indorsement of the Extent is called the fine of the Extent, which must be delivered unto the Sheriff, who will impannel a Jury to inquire, and extend and apprehend as well the body as the Lands, Goods and Chattels of the party so bounden.

And when the Sheriff hath extended them into the Kings hands, he will keep them until you bring him a *Deliberate*, which you may have in the Office of the Petty-bag.

But before you sue out the *Deliberate*, be sure to inform your self, whether there be Estate or Goods extended

tended ſufficient to ſatisfie your Statute: for after you have taken your *Deliberate*, you ſhall never have more then what was firſt extended and delivered.

Therefore if you can finde any more Lands or Goods extendible, in any other place then you have at firſt extended, you may get them extended likewiſe, until you have ſufficient to ſatisfie your Debt; and when you have ſufficient, then deliver up your Statute unto the Clerk of the Petty-bag, who will thereupon make your ſaid Writ of *Deliberate*, and not before.

CHAP. VIII.

How to ſue forth a ſpecial Supplicavit *out of the Chancery, and alſo how to ſuperſede the ſame.*

THe firſt proceeding in this Caſe is: The party that deſires the Writ, muſt go before one of the Maſters of the Chancery, and take his corporal Oath that it is not deſired for any malice, hatred, or envy to the party, but for his own quietneſs and ſafety: whereupon you ſhall have a Warrant to lead the ſaid *Supplicavit*; and conſequently thereupon, the Writ it ſelf, as ſoon as it can be written and ſealed; which one of the Clerks in the Six Clerks Office will do for you.

After you have the ſame granted, you may ſue out of the Chancery a Writ of *Certiorari*; which you ſhould uſe after this manner (*viz:*) when you have delivered your *Supplicavit* to the Sheriff, to have a Warrant thereupon for the arreſting of the party ſued, and have got him arreſted, you muſt keep your *Certiorari* private, until he have put in Bayl as the caſe requires.

For

For if he know of the *Certiorari*, he will lye in prison until he have procured a *Supersedeas* unto your *Supplicavit*: which if he do, your *Certiorari* is void and useless.

But when the party is arrested, and hath put in Sureties to the Sheriff or Justice who granted the Warrant upon the Writ, and the party hath put in Bail, then deliver your *Certiorari* unto them that took the Bail, and thereupon they are required to certifie up the same accordingly; and by this means shall the party continue bound, until you please of your own accord to release him.

This hath heretofore been a practice very frequent and usual, but of late years happens very seldom. I remember about eight years ago, a troublesome malicious Priest sued out one against some of his neighbours, but I have not heard of any since.

SECT. 2.

HOw to supersede a Writ of *Supplicavit*, because it cannot be known without search and expence to the party against whom the said Writ of *Supplicavit* for the peace or good behaviour is sued out, in what Court the same is so sued, until he be arrested thereupon, whether it be out of the Kings Bench or the Chancery; wherefore to avoid the trouble of being bound, he may sue out and have his *Supersedeas* ever in readiness about him, if he suspect any such practice be intended against him: which *Supersedeas* must be sued out in this manner, *viz.* You shall rather in the Chancery then on the Kings Bench side enter into Bond with Sureties *gratis*, with condition that you shall keep the Kings peace, or be of the good behaviour, for such time as you shall bind your self, and as the occasion shall require. If you suspect your Adversary will

will binde you to the Peace only, then a *Superſedeas* for the peace alone will ſerve; if for the good behaviour, then muſt your *Superſedeas* be for the good behaviour; or if both, for both.

When you have ſo bound your ſelf with Sureties, or Sureties in your abſence have ſo undertaken for you (as your *Manucaptors*) before a Maſter in Chancery, you may have a VVarrant, and thereupon your *Superſedeas*, ſo ſoon as it can be made and ſealed. And thus much for *Supplicavit* and *Superſedeas*.

CHAP. IX.

Of the amplitude of this Court, and the Fees of Original Writs in Chancery.

THe Chancery hath the making out of all VVrits of Summons to the Parliament.

In the Petty-bag-Office, are all Latine Pleadings concerning the queſtion of any Patent, or any thing whatſoever which paſſeth the great Seal; or whatſoever private Deed between ſubjects which is acknowledged in Chancery; and all Statutes and Recognizances taken in this Court and tranſmitted hither; with all ſuits for or againſt any perſon priviledged in Chancery: and for the Curſitors of the Chancery, they make all Original VVrits, both of the Chancery, Kings Bench, and Common Pleas.

Theſe Curſitors were incorporated by Q. *Elizabeth*, by the name of the twenty four Curſitors, amongſt whom the buſineſs of the ſeveral Shires is diſtributed.

If any ſuit depend before any Sheriff in his Turn or County-court, you may remove it with a *Recordare*.

If

If it lye in a Court-Baron, the Curfitor will call it away with an *Accedas ad Curiam*.

If it lye in a Town Corporate, he will remove it with a *Certiorari* returnable in Chancery, which may be made of course without any Bill exhibited.

And a *Procedendo* may be made also presently thereupon, before the return of the said *Certiorari*, and that of course likewise.

And also a second *Certiorari*, and a second *Procedendo* thereupon may be made; but the second *Certiorari* should be upon a Bill exhibited, shewing good cause for the Complainant to be relieved in equity

And upon Bond or Recognizance given by the Plaintiff or some other for him, with condition that the Plaintiff shall prove the contents of the said Bill, the Court of Chancery doth often grant a special *Certiorari*, signed by the Lord Keeper or Lord Chancellor, or the Master of the Rolls for the time being.

And the condition of this last recited Bond gives the Obligor only fourteen days liberty to prove the contents of the Bill; which fourteen days must commence from the date of the return of the said VVrit of *Certiorari*.

SECT. 2.

The Fees of all Original Writs sealed in the Chancery.

A	l.	s.	d.
Accedas ad Curiam	0	2	7
Administratio pasturæ	0	5	7
Ad quod damnum	0	7	2
Annual. reddit.	0	1	6
Assis. cujusq; general.	0	5	6
Attinct.	0	7	6
Audita querela	0	7	2

Cer-

C

	L	s.	d.
Certiorari	0	1	6
Ceſſavit	0	2	6
Conſpiracy	0	5	6
Contentione	0	2	6
Coronator. eligend.	0	7	2
Cui in vita	0	2	6
Cur claudend.	0	2	6
Comperuit	0	2	6
Sum. bre. de Covenant	0	2	6

D

Dlem clauſit extremum	0	2	6
Dedimus poteſtatem ſuper bre. de con. dot.	0	2	6
Special. dedimus poteſtatem	0	7	2
Original. de delib. & detinue	0	1	0

E

Ejectione firmæ	0	2	6
Ejectione cuſtod.	0	2	6
Excommunicat. capiend.	0	7	2
Execut. inde	0	2	6
Expenc. nullat.	0	7	2
Error in London	0	7	2
Patent inde	0	7	2
Elegit	0	10	0

of

F

	l.	s.	d.
FAlso judicio	0	2	6
For. Fac. Maritag.	0	2	6
Forma donationis	0	2	6

H

HÆred. capt.	0	2	6
Con. Repleg.	0	5	6

L

LEproso amovendo	0	5	6
Libertat. proband.	0	5	6
Libertat. allocand.	0	7	2

M

MOderat.	0	2	6
Maintenand.	0	2	6
Minus	0	2	6
Monstraverunt	0	5	6
Mittimus	0	2	6
Mandamus	0	7	2

N

NOcunt	0	2	6
Non molestand.	0	2	6
Non omittas	0	5	6
Non ponend. in Assiz.	0	7	2

O

	l.	s.	d.
Officiar non faciend.	0	5	6
Ordinar. non serviend.	0	2	6

P

Pact. fract	0	2	6
Partic. faciend.	0	2	6
Patent breve de errore corrigend. in Assiz. attinct.	0	7	2
Pleg. acquietand.	0	2	6
Pone	0	2	6
Perambulat. faciend.	0	5	6
Palibus reparand.	0	2	6
Post disseizin	0	2	6
Precipe in cur.	0	2	6
Procedendo	0	2	6
Prohibition	0	2	6
Propriat. proband.	0	7	6

R

Recte clauf.	0	2	2
Recte Patent	0	2	6
Redisseizin	0	7	2
Reparatio pontium utarum Domini	0	2	6
Repleg Original.	0	1	6
Rescous	0	2	6
Recordare	0	2	6

S T U

Significavit	0	7	2
Breve de estat.	0	2	6

Subpœna

	l.	s.	d.
Subpœna	0	2	6
Superſed. inde	0	7	2
Superſed. pro pace	0	5	6
Superſed. omn. al.	0	5	6
Tranſ.	0	1	0
Tranſ. ſuper caſum	0	2	6
Valore Maritagii	0	2	6
Vaſc.	0	2	6
Villat. removend.	0	2	2
Vitar. eligend.	0	2	2

P

Warrantia charta	0	2	6
Warrantia diei	0	5	6
Withernam	0	5	6

CHAP.

CHAP. X.

By way of Advice and Corollary.

THus have I with brevity, plainness and truth, run over all the most material and effectual things which are required from a Sollicitor, or indeed from any belonging to the Court. I suppose I shall not need to say any thing of Sollicitation in the Courts of Kings Bench and Common Pleas at *Westminster*, neither of the Exchequer-proceedings by English Bill, they being in effect one and the same with the Chancery, only a little more chargeable. The Office of Pleas agrees with the Kings Bench; and all other Offices belonging to that Court, may rather be looked upon as pertaining to the Kings Revenue, then matter of Record between private subjects. The Hustings of *London* are of so quick dispatch, and little charge, that the very meanest persons in the City understand the practice thereof, though sometimes there are some delays put upon them by the Practicers, who keep the mystery of their dealing within their Walls. In short, I suppose Sollicitation is either onely or chiefly needful in Chancery, where alwayes the causes are of great weight, importance and intricacy; and not in Courts of Law, where the Attornies and their Clerks are able to manage and go through much more business then they have, their Proceedings being certain and concise, and tyed to stricter Rules then the Chancery, being a Court of Equity, can be. But if our Sollicitor will stoop to those smaller Courts, let him know, all that he hath to do there, is but to be able to breviate his Clyents cause, fit to instruct

Counsel: for in all other things he is but a servant to the Attorney. Yet would I not have him either negligent or ignorant; but, as leisure shall serve, still to have an eye to the practice of all Courts: for by that means at one time or other he shall be enabled either to serve his friend or Client. And though by practice he cannot assist, yet by his knowledge he may advise what may be the safest way to tread in. So shall he merit the praises of a knowing and industrious person; making good that of *Cicero* in his first Book *de Officiis*, to wit, *Nulla vitæ pars, neq; publicis, neq; privatis, neq; forensibus, neq; domesticis in rebus, neq; si recum quid agas, neq; si cum altero contrahas, vacare officio potest: in eoq; excolendo sita est vitæ honestas omnis, & in negligendo turpitudo.* And in another place of the same Book: *Præclare scriptum est à Platone, Non nobis solum nati sumus: ortusq; nostri partem patria vendicat, partem amici. Atq; ut placet Stoicis, quæ in terris gignuntur ad hominum usum omnia creari, homines autem hominum causa esse procreatos, ut ipsi inter se alii alijs prodesse possint. In hoc Naturam debemus sequi ducem & communes utilitates afferre in media commutatione officiorum, dando accipiendo, tum artibus, tum operâ, tum facultatibus devinciere hominũ inter homines societatem.* "It was most excellently written by the divine *Plato* "(saith he) that we were not born for our selves only: for of our being, our Country chalengeth one "part, and another our Friends. And as the Stoicks "said, that all things that were bred by the earth, "were brought forth for the use of man: so men were "born for the sake of one another, that they might "help and be profitable one to another. And herein "indeed we should follow our great Commandress "Nature, by giving and receiving, to do common "good, by all the arts, ways, means and indeavors "that they can possibly finde to oblige and tye men

"to ge-

"together one to another in a civil society, or bond "of friendship. But every man is not fit for this ex, *quovis signo non fit Mercurius*: therefore it is not that none should meddle in Affairs belonging to the Law, but such as have sound discerning Judgements, and know what they go about; for if they become not only punishable, but ridiculous. As it once happened to *Megabyzes* the Persian, a man otherwise of great reputation and valour, who having upon a time entred into the Lodging where the famous Painter *Apelles* did ply and practice his Art, began to discourse touching the same; and would needs give him to understand that he knew the nature and secrets thereof: to whom *Apelles*, as being a wise and well-conditioned man, thus answered: *Truely, Megabyzes, before I heard you speak, I held you for a discreet man; for your silence did grace your brave apparel: but since ye have needed to talk of my trade, trust me not if the very smallest Boy here that brayeth the Oker, will not mock at, and flout you for your labour.* Which may teach every man to keep himself within the compass of his calling, and not every foolish fellow to undertake so weighty a profession as that of a good Sollicitor ought to be. This was inculcated by the Poets, when they feign that their gods do content themselves each within his own sphere; *Mars* meddleth with War, *Minerva* with Arts, *Mercury* with Eloquence, *Cupid* with Love, *Neptune* with the Sea, *Pluto* with Hell, *Jupiter* with Heaven. Hence we may gather, that all things do not to befit all men: The horse is fit for riding and running, the Oxe for labouring the ground. Yet there are a sort of men (and I wish they were not) who without leaving any part of their idleness and vices, would be as wise as the Philosophers, that have both night and day studied so much. But in these, and such other Occurrents which at present cannot be helped, let us take occasion to

be more watchful and wary, leſt we become one of thoſe that forget to carry our ſelves diſcreetly; and while we blame others, run into the ſame fault our ſelves.

Now having accompliſhed our Sollicitor in his Chancery-Practice, we will ſend him to the Common Law; and firſt to the Court of Common Pleas at *Weſtminſter*.

THE

THE SOLLICITOR IN THE Common Pleas.

CHAP. XI.

HAving now paſſed the Court of Chancery, we bring our Sollicitor into the Courts of the Common Law; and becauſe the Court of Common Pleas for its variety of Pleadings, Offices and large extent in the nature of all Actions, both real, perſonal and mixt, being the moſt copious Court of Common Law that is, we ſhall begin with that firſt; and the better to initiate the Reader into the underſtanding of the Practice hereof, we ſhall ſpeak ſomething of the Original and Foundation of this Court.

Before the Reign of King *Henry* III. there was but one ſupream Court for determining all cauſes, both criminal and civil, which was called the high Court of the King, where the Kings of *England* ſate themſelves in perſon, as we ſhall ſpeak more at large when

we come to treat of the Court of the Kings Beneh: so that the Kings Bench and the Common Pleas were then all one Court, which removed as the King did, and followed him wheresoever he went; onely this I must add, that King *Henry* II. in the three and twentieth year of his Reign, did (by the advice of his Son and Bishops) divide the Kingdom into six parts, and to every of those he assigned three Justices, called by *Bracton*, *Itinerantes*; and by *Britton*, Justices in *Eyre*, *quasi errantes*, in respect of the other Justices, who at first were called *Residentes*, *Sedentes*, and afterwards *Justiciarii de Banco*. (which title they have to this hour) because of the certain place of their sitting without remove.

These Justices in *Eyre* had their Circuits, not much differing from the same that our Judges of *Assize* do now ride: and these Justices in *Eyre* held Plea as well of criminal as of civil Causes, and so continued until the beginning of the Reign of King *Edward* III. about which time their Authority began to decay, being weakned by advancing of Justices of *Assize*, and by ordaining Wardens of the Peace, now called Justices of the Peace: soon after which, the Sessions in *Eyre* did begin to decay and cease. And in the ninth year of King *Henry* III. he granted unto his Subjects that great Charter of the Liberties of *England*, in Chap. 11. whereof it is thus ordained: *Communia placita non sequantur Curiam nostram, sed teneantur in aliquo certo loco*; Common Pleas shall not follow our Court, but shall be held in some certain place. Whereupon this Court was established at *Westminster* as a standing seat of Justice, for the determination of such Pleas as are meerly civil, and belong to the Subjects between themselves. And thus began that Court now called the Common Pleas.

SCET.

SECT. 2.

The Officers of the Common Pleas as it is now established.

THis Court consists of a Lord Chief Justice, and three other Judges.

The subordinate Officers are,

The *Custos Brevium*, or Keeper of the Writs, who is the first and chief Officer of the Court.

The three *Prothonotaries*, in whose Offices all Pleadings are entred, and all common Recoveries recorded and exemplified.

The Clerk of the Warrants, who entreth all Warrants of Attorney, and enrolleth all Deeds acknowledged before the Justices of the Court.

Philizers, who have the several Counties of *England* divided amongst them, and make all mean Process upon Original before appearance, as *Capias*, *Alias*, *Pluries*, &c.

The Clerk of the *Essoyns*, who doth enter the Essoyns and Exceptions in all Actions wherein Essoyns do lye, and prepareth and marketh all the Rolls used for the Court.

The Clerk of the *Vilaries*, who makes the *Capias utlagatum*, upon the return of the Exigents brought unto him: the Kings Attorney general for the time being is properly Master of this Office.

The *Exigenters* are likewise appointed for several Counties, and make the Writs of Exigents and Proclamations upon the return of the *Pluries capias*, brought in unto them.

The Clerk of the *Supersedeas* who makes Writs to super-

ſuperſede the outlawing upon the parties appearing to the Exigent.

The Clerk of the *Juries*, who makes the Writs of *Habeas Corpora Jur. & Diſtringas Jur.* for the tryal of Iſſues.

The *Chirographer*, who makes the Indentures of all Fines levyed.

The Clerk of the *Kings Silver*, who enters upon Record the money which the King is to have upon Fines for the Poſt Fines, according to the value of the Land, as the ſame is rated upon the VVrits of Covenant.

The Clerk of the *Errors*, who makes the *Superſedeas* upon the Writs of Error, and doth tranſcribe the Records out of the Common Pleas into the Kings Bench.

The Clerk of the *Treaſury*, who keepeth the Rolls of the Court, and makes Copies and Exemplifications thereof, and alſo all Records of *Niſi prius*, which are after the ſame Term wherein iſſue is joyned.

The Proclamator of the Court, the Keeper of the Court, the Office of inrolment of Fines and Recoveries, erected by Statute.

Four Cryers or Tipſtaves, Subſtitutes to the Proclamator.

The VVarden of the *Fleet*, who by himſelf or his Depury is to attend the Court; that Priſon being proper for all commitments out of that Court.

The Pleaders are Serjeants of the *Coiſe*; none under that degree are admitted to plead at that Bar, nor to Sign any ſpecial Pleadings in that Court.

The Attorneys are very many, being not limited to any certain number; every one whereof, when he is admitted, takes an Oath in Court for the due adminiſtration of his Office.

VVhen he takes his Oath, he muſt pay the Fees following.

To

To the Judges Box 20 *s.*
To the Secondary of the first *Prothonotary* 1 *s.*
To the Cryers and other Officers 11 *s.*

Then in the afternoon he must have a Note from the *Prothonotary* in whose Office he intends to enter, directed to the Clerk of the VVarrants; which is usually made in Parchment as follows:

De Termino Sancti Michaelis, Anno, &c.
A. B. Attorn. Jnr.

To which VVarrant the *Prothonotary* subscribes his name, and the Clerk of the VVarrants upon the receipt thereof, enters his name into the Roll of Attorneys.

The Clerk of the VVarrants hath for entring of the same 4 *s.* 4 *d.* and for the Roll of that Term 4 *d.* and 4 *d.* every Term following as long as he continues an Attorney.

SECT. 3.

Instructions for the first commencing a suit in the Common Pleas.

TO begin a suit in this Court, you must first draw your *Præcipe* in Paper according to the nature of your Action, which is your instructions both for the Original and mean Process; and therein set down the Town and County where the Defendant lives, with his Addition, whether it be Gent. Husbandman, Yeoman, or the like: and if the Action be upon a specialty, as Bond, Bill, *&c.* you must draw up your *Præcipe* with an *Alias dictas* (which is the second Addition) as it is in the Bond or Bill *literatim*: and if you sue upon

on

on an Indenture, the *Alias dictus* must be recited *literatim*, as in the Indenture.

The first ground of a suit in this Court, is an original; which if it be an Action of Debt, draw your *Præcipe* thus, *viz.*

Lond. ff. *Pr. A. D nuper de* London *generoso, quod reddat R S. in libras &c. r. tres Trin cap. ret. tres Michaelis.*

If you would have two, or three, or four Defendants in one Original (more you cannot have) then draw the *Præcipe* up thus:

Pr. T. D. nuper de L. Genr. *quod reddat I. M.* 20 *l. pr. A. B. nuper de L.* Husbandman, *quod reddat eidem* 10 *l. pr. C. D. nuper de W. in Com. S.* Yeoman, *quod reddat eidem* 20 *l. &c.*

Note, in a Writ you may have four Defendants; yet you can have but one Plaintiff in a Writ, unless it be in a Joynt-action.

In Trespass draw your *Præcipe* thus:

Lond. ff. *Si A. B. fec. &c. tunc pone C. D. nuper de L.* Yeoman, *de placito quare vi & armis clausum & domum ipsius A. apud L. fregit, & alia enormia ei intulit, ad grave dampnum ipsius A. & contra pacem, &c.*

In Assault and Battery.

Lond. ff. *Si A. B. fec. &c. tunc pone R. M. nuper de L.* Yeoman, *de placito quare vi & armis in ipsum A. apud L. insultum fecit & ipsum verberavit, vul-*

vulneravit, & male tractavit, ita quod de vita ejus desperabatur; & alia enormia ei intulit, ad grave dampnum ipsius A. & contra pacem nostram, &c.

In an *Action* of *Accompt*, charging the Defendant as Receiver, draw up your *Præcipe* in this manner, *viz.*

Suth. ss. *Pr. M. L. nuper de H. in Com. prædict.* Gent. *quod reddat R. S. rationabilem computum suum, de tempore quo fuit receptor denariorum ipsius R. & habeat, &c.*

If you charge him as Bailiff, then *de tempore quo fuit Ballivus ipsius R. in H. &c.*

If as both Bailiff and Receiver, then charge him thus: *De tempore quo fuit Ballivus suus in H. & Receptor denariorum ipsius R. & habeas, &c.*

A *Præcipe* in *Detinue*.

Kant. ss. *Pr. T. S. nuper de M. in Com. prad.* Yeoman, *quod reddat R. T. unam equam*, or *unam vaccam pretii 10 l. quam ei injuste detinet, &c.*

In *Annuity*.

Surr. ss. *Præcipe L. S. nuper de G. in Com. præd.* Yeom. *quod reddat B. R. quæ ei Arretro sunt de quodam Annuo reditu xl. l. quas ei debet, & injuste detinet, &c.*

In an *Action* of Covenant.

Suth. ss. *T. S. nuper de H. in Com. præd.* Yeom. *alias dictus T. S. &c* (*literatim* as it is in the Indenture) *ad respondendum, R. T. de placito quod teneat ei*

ei conventionem inter eos factam, secundum vim, formam & effectum quarundam Indenturarum inde inter eos confect. &c.

In *Ejectione firmæ.*

Middl. ff. *Si I. G. fec. &c. tunc pone R. S. nuper de L. in Com. prædict.* Yeom. *ad respondendum præfat. I. G. de placito, quare vi & armis unum Messuagium, & viginti Acras terræ cum pertinentiis in L. quæ C. H. præfat. I. G. dimisit ad Terminum qui nondum præteriit, intravit, & ipsum à firma sua prædicta ejecit: Et alia enorma, &c. Ad grave damnum, &c. Et contra pacem, &c.*

The Original is the Warrant to every *Capias* to arrest; and the return of the Original is the *Teste* of the *Capias*: but the common course is to take out the *Capias*, and sue out the original afterwards, although it be supposed to be sued out before, because the Original cannot be so speedily sued out at all times.

When you have sued out your Original from the Cursitor of the County where you lay your Action, you must return it in this manner:

At the upper end of the Writ

Pleg. de Pros. { *Johannes Doo,* / *Richardus Roo.*

In the middle, *In fran. S. T. nihil habet in Balliva mea (vel nostra, if there be two Sheriffs) per quod Attach. potest.*

Lower end, *Respons. R. F. & R. R. Vic.*

But

But if there be but one Sheriff, the word *Respons.* is omitted.

If there be an Action of Debt, you must say, *Per quod summ. potest*, and not *Attach. potest.*

Note, that the return of the *Capias* is always fifteen days or more after the return of the Original; and the *Cap.* is *Teste* of the return of the Original: as I have said before.

Observe likewise: That all manner of personal Actions, where no possession is awarded, as Debt, etinue, Annuity, Accompt, *&c.* are transitory, and may be laid in what County the Plaintiff pleaseth: but Actions of *Ejectione firme*, Trespass and Waste, are local, and must be tryed in the proper County.

If the Plaintiff desires to have his Action tryed in *London*, and the Defendant lives in a forraign County, you must first sue out an Original and *Capias* returnable in *London* of a precedent return; and upon the return of the *Capias* in *London* the *Philizer* will make you a *Cap. testat.* into the County where the Defendant dwells, or may be taken.

SECT. 4.

Of suing to the Outlawry.

THis is a common course of suing to the Outlawry, and not arresting the Defendant upon the mean Process. This suing to the Outlawry cannot be perfected under three Terms: as thus, if you would begin in *Easter*-Vacation to sue a Bond to the Outlawry, then you must be wary to take the benefit of the precedent Term, otherwise you cannot finish it by *Michaelmas*-Term following. But proceed thus: The Original returnable *quindena Paschæ*, the *Cap Teste*, *quindena Paschæ*, *ret. quin.*

que

quinque Pasche, alias capias teste quinq; Pasc. ret. crastin. Trin. pluries capias teste crastino Trin. ret tres Trin. and the Exigent and Proclamation returnable in *mense Michaelis*, both of the same *Teste* and Return.

So observe, between the *Teste* and Return of each Writ, is always full fifteen dayes or more, and the Return of the first Writ is the *Teste* of the second, and so in order.

When you have returned a *nihil* upon the original, carry it to the *Philizer* of *London* to file, who makes the *Capias* and *alias Capias*, whereupon return *Non est inventus* your self of course, & carry them back again under Seal to the *Philizer*, who will thereupon make a *pluries Capias*, which also return *Non est inventus* & carry it under Seal to the Exigenter of *London*, who makes thereupon an Exigent & Proclamation; which Proclamation give or send to the Sheriff of the County where the Defendant lives, any where within *England* or *Wales* (for no County Palatine, or Liberty whatsoever, can priviledge from the Process of an Outlawry) and carry the Exigent to one of the Compters in *London*, where there are Clerks attend for that purpose, who proclaim them upon five several Husting dayes, and the party not appearing by the *Quint. exactus*, is returned Outlawed.

If the Defendant in the mean time agree with the Plaintiff, you may withdraw the Writ, paying for a *Retraxit*.

So likewise may you take the benefit of *Michaelmas* Term in *Hillary* Vacation, & have the party returned outlawed in *Easter* Term following: and if the action be laid in *London*, you may have an original returnable in *crastino Trin.* and the Exigent will come in returnable in *Hillary* Term following: but it cannot be so if the Action had been in the Country; so that in *London* you may sue to the Outlawry three times in the

the year, which in the Country cannot be; and that is the reaſon moſt lay their Actions in *London* upon ſuing to the Outlawry, becauſe there they are ſooner outlawed, becauſe there muſt be five County-dayes betwixt the *Teſte* and return of the Exigent: but in *London* they call them Huſts, or Huſting dayes, which are ofner then the County-days in the Country: ſo that the party is there ſooner outlawed, as we ſhall have occaſion to ſpeak of more at large, when we come to direct our Sollicitor unto that Court of Huſtings in *London*.

If it happen that there be not five Huſts or five County dayes between the *Teſte* and return of the *Exigent*, as ſomtimes it falls out, then you muſt get an *Allocat.* which the Exigenter will help you to.

SECT. 5.

Of Appearance to the Exigent, *and Declaration thereupon.*

IF the Defendant upon the return of the Exigent do appear thereunto, he ſhall not be compelled to put in ſpecial Bail, be the Debt never ſo great; whereas if he had been arreſted upon a mean Proceſs, he ſhould have been compelled unto it: or if he be outlawed, he muſt reverſe it, and put in ſpecial Bail, if the Debt be above twenty pounds.

Now the way to appear and ſuperſede the Exigent is: You muſt procure a Copy of the Exigent from the Clerk for that purpoſe at the Compter, if the Action be laid in *London*, or from the Sheriff of the County where the Action is laid, which you are to carry to the Clerk of the *Superſedeas*, who is appointed for that purpoſe, and attends in the mornings every Term at his

his ſeat in *Weſtminſter*-Hall, and he will make you a VVrit of *Superſedeas*, which you muſt get allowed by the Sheriff of the County, or Clerk of the Compter where the *Action* is.

Now upon the Defendants appearance by *Superſedeas*, the Plaintiffs *Attorney* muſt prepare his Declaration, and deliver it to the Defendants *Attorney*; and if it be an *Action* upon a ſpecialty, he muſt ſhew the ſpecialty it ſelf, and write the VVitneſſes names in the Margent of the Paper-book. Or, if the Plaintiff ſue and declare as Executor or *Adminiſtrator*; he muſt ſhew the Will or Letters of *Adminiſtration*, for ſo he concludes his Declaration, *viz. Et præſat. Cur. tam ſcriptum prædictum*, &c. *quam literas Teſtamentarias*, if it be a Will; or *literas Adminiſtratorias*, &c. if it be an *Adminiſtration*.

But although the Plaintiffs *Attorney* hath not the ſpecialty, *&c.* to ſhew, yet if he ſet his hand that the Defendants *Attorney* ſhall ſee it before he plead, he may accept the Declaration without damage. Or, if the Defendants *Attorney* take an imperfect Copy with blank ſpaces, he ſhall not be compelled to plead until the Plaintiffs *Attorney* hath made it perfect; and upon taking it he ſhall imparle of courſe.

VVhen the Defendant appears unto an Exigent by *Superſedeas*, the Plaintiff muſt declare within ſix or eight days after, otherwiſe the Defendant may give him a Rule in the Bill of Pleas, in one of the *Prothonotaries* Offices; and if no Declaration come in within the time limited, the Defendant may Non-ſuit the Plaintiff, and get coſts ſigned by the *Prothonotary* upon a *non Proſ.* and have Execution for the coſts againſt the Plaintiff, either againſt his body or Goods, *&c.*

On the contrary, if the Defendant appear by *Superſedeas*, and will not take a Declaration, the Plaintiff

tiff may have Judgement againſt him by *Nihil dicit.*

Upon an Imparlance, the general Rule is, the defendant is to plead within eight days of the enſuing Term, after the defendant hath appeared and taken a Declaration. If he plead not within due time, the Plaintiffs Attorney (having given him a Rule to plead in the Bill of Pleas) may get the *Prothonotary* to ſign coſts, and ſo enter up Judgement by *Nihil dicit* upon the Rule; and thereupon make out what execution he pleaſeth

Likewiſe if the defendant ſhall plead a general iſſue, as *Non aſſumpſit* to an action upon the Caſe, *Nil debet per patriam* to an action of debt; if the Plaintiff do not enter his Iſſue, he may after a Rule given nonſuit the Plaintiff, and get coſts ſigned by the *Prothonotary*, and enter up Judgement ſpecially, *Quia non junxit in exitum, nec ulterius proſecut. bre. ſuum prædict.* This is all matter of courſe without moving the Court. But in all ſpecial actions, as *Quare impedit*, Dower, Waſte, Prohibitions, *Ejectione firme*, and all actions upon any penal Statute: as the Plaintiff cannot enter Judgement of courſe without motion, as in ordinary actions, but he muſt move the Court to give a day to the defendant to plead peremptorily, before he can enter Judgement by default; ſo likewiſe after the defendant hath pleaded, and the Plaintiff reply not in due time, the defendant cannot have Judgement for not proſecuting of courſe; but he muſt move the Court to give a day peremptory to the Plaintiff to reply: at which day if he reply not, Judgement ſhall be awarded againſt him *pro defect. Replicationis*, which muſt alſo be entred up ſpecially.

If an Attorney deliver a Declaration, and in the Term following would amend the ſame in ſome material point; he cannot do it without moving the Court, who will order he may amend the ſame, paying coſts

to the defendant for such his amendment.

When a man is arrested upon a *Capias*, and puts in no Bail for his appearance, the Paintiff hath an action on the Case against the Sheriff to whom the Writ was directed.

But if the Sheriff hath taken Bail, and the defendant appear not at the return, then call for a return of your Writ from the Sheriff, who will return a *Cepi Corpus*; which carry to the *Philizer*, and he will amerce the Sheriff 40 *s.* and make you out an *Habeas Corpus* to the Sheriff: and if the defendant do not appear by the return thereof, a *Cepi* being returned upon it, the *Philizer* will make an *Alias Habeas corpus*, and amerce the Sheriff 4 *l.* and so *ad infinitum* till the defendant do appear; which when he hath done, prepare ready your Declaration.

If the Sheriff who arrested the defendant be out of his Office before he return your *Habeas Corpus*, and the defendant appear not, you are to sue forth a *Distring. nuper Vic.*

If the defendant be arrested upon a debt of twenty pounds, or above; or upon an action of the Case, wherein above twenty pounds damages are laid: though he did put in Bail for his appearance, and would appear by an Attorney; yet you may proceed with Amerciaments against the Sheriff, till the defendant come with two sufficient Sureties, such as the Plaintiffs Attorney shall accept of; and go with the *Philizer* before a Judge, and become bound, That if the defendant be condemned in the suit against him, he shall pay the debt or damages recovered against him, or render his body to Prison; which Bail the *Philizer* takes a Record of: so that now if Judgement be against the defendant, if at the return of the execution the Bail bring in his body, and he render himself to prison, then the Bail is discharged.

But

But if the defendant do not render himself, nor the Bail bring in his body, then after a *Ca. sa.* being returned *Non est inventus*, and filed with the *Caſtos Brev.* a *Scire fac.* may be taken out against the Bail, and they are compelled to ſatisfie the condemnation for whom they are Bail

All appearances upon Writs of *Capias*, muſt be entred in the *Philizers* Office whence the *Capias* iſſued: but appearances upon Attachments of Priviledge, at an *Attorneys* or Clerks ſuit, muſt be entred in the Remembrance in the *Prothonotaries* Office whence it iſſued: and here the Plaintiff may refuſe to accept of an appearance, but may amerce the Sheriff till the defendant put in ſpecial Bail; which muſt be taken before a Judge upon the Remembrance, by one of the *Prothonotaries* Clerks: and upon putting in of all Bails, the Plaintiffs *Attorney* muſt have notice, or he may after except againſt the Bail; and upon ſhewing cauſe of their inſufficiency, unleſs they can juſtifie themſelves, he may get better.

And where the debt is twenty pounds, or above, as aforeſaid; though the defendant give bond for his appearance, and at the day appear by his *Attorney*, and the plaintiff not accepting thereof, he may amerce the Sheriff upon a *Cepi* returned. Whereupon the Sheriff aſſigns over his Bail-bond to the Plaintiff, who thereupon ſues the defendant and his Bail: if the defendant do unto that Bond plead *Comparavit ad diem*; and the Plaintiff reply, *Quod nul tiel Record*, the defendants Plea is not good, becauſe the Plaintiff ſhould have had ſpecial Bail; ſo that the iſſue ſhall go for the Plaintiff.

If a man be arreſted upon a *Clauſum fregit*, and the Term following the Plaintiff declares in an action on the Caſe, the defendant ſhall imparle of courſe.

But if the Writ be ſpecial, and returnable the firſt re-

return of the Term following the arreſt, the defendant may be compelled to anſwer the ſame Term.

But uſually (except in ſome particular Caſes) the defendant appearing and receiving a Declaration in one Term, hath an Imparlance over until the next Term following.

The defendant may be arreſted upon a *Clauſum fregit*, and the Plaintiff may declare in Caſe treſpaſs and debt.

But if the party be arreſted upon a Writ in debt, the Plaintiff cannot declare in any other action, but in debt onely.

In action of debt upon a Bond or Bill under ſeal, it is uſual for the defendants Attorney, to ſave his Client charges, to give a Judgement by *non ſum Informatus* with a *Ceſſit executio* till the next Term after, or ſo long time as he can get of the Plaintiff.

In all ſpecial Pleadings, there muſt be a Sergeants hand to the Plea; and if the Plaintiff reply ſpecially with a Traverſe, or the like, the Replication muſt be alſo ſigned by a Sergeant: ſo alſo all Demurrers, and joynders in Demurrer, muſt be under a Sergeants hand; and there muſt be Books of Demurrer made for all the Judges.

Upon pleading a tender to a Bond or Bill, the money muſt be brought into Court with the Plea: for he ſays, *Quod ſemper hucuſq; paratus fuit, & adhuc paratus exiſtit, ad ſolvendum, &c.* and if upon Iſſue joyned, the defendant proves his tender, the Plaintiff loſes his coſts.

After an Imparlance, a tender cannot be pleaded upon an action laid in *London*, after the Plaintiffs Attorney hath delivered the defendants Attorney a Copy of the Iſſue: if he intends to try it, he muſt give the defendants Attorney eight days notice thereof at leaſt.

If

If an action be laid upon a Bond in *London*, and the defendant pleads conditions performed, the money paid at *Holshot* in *Hampshire*, avoiding to the condition, here the *Venire* shall not arise in *London*, but in *Holshot*, in Com. Sutht. and the record shall go to *Hampshire-Assizes* to be tryed. But this, you must observe, is where a place of payment is appointed in the condition of the bond; therefore wise men will not suffer any place of payment in the condition of a bond to be mentioned at all; whereby this evil is avoided, and that of pleading a tender: for if there be no place of payment mentioned, the Obligor must tender the mony to the Obligee himself upon the day of payment, if he would have the benefit of pleading a Tender in case he refuse to receive it.

So if an action on the Case be brought in *London*, against a Carrier for losing goods delivered unto him, which he undertook to deliver at *Abington* in *Com. Berkes*, and he plead *quod secundum promissionem & assumptionem, bona & catalla quer. deliberavit ad usum quer. apud* Abington, &c. In this case the *Venire* shall arise from *Abington* in *com. B.* and there the Record shall be tryed.

Likewise if an action be brought against an hundred for a *Robbery* done within that Hundred, the *Venire* must not arise out of that Hundred where the fact was done, (for then they should be both Defendants and Judges of their own cause) but the *Venire* must issue, *in hundredo prox. adjacen.* and this *Venire* must be entred upon the Roll specially.

Also when issue is joyned, if the defendant be of kin to the Sheriff either by blood or marriage, the Plaintiff may pray the *Venire* may be directed to the *Coroners*: and this must be specially awarded upon the Roll; and in the awarding, it must be set down and derived how the Sheriff is of kin; and then is the *Venire* directed

to the *Coroners*. And this is called a Challenger to the *Array*.

And when you make a Challenge to the Jury, your time to challenge them is when they come to the book, before they be ſworn; for afterwards it is too late.

If at a tryal at the *Aſſizes* in the Country the Jury do not fill, the Plaintiffs Councel or *Attorney* may crave a *Tales de Circumſtantibus* to fill up the Jury,

If a Record be brought to be tryed upon any penal Statute, and the Jury fill not, you cannot have a *Tales* without producing a Warrant from the *Attorney-general*; which you muſt be careful to have in readineſs, leſt (if the Jury do not fully appear, as ſeldom they do,) you loſe your tryal: the form of which Warrant is in this manner.

Suff.ſſ. *Ni.pri inter R.P.qui tam pro Dom. Rege quam pro ſeipſo in hac parte ſequitur quer. Et E.S. per Trin. Record. Anno*, &c.

Suff.ſſ. *G.P.Mil. & Baronet. Attorn. Dom. Regis nunc general. pet. decem tales de circumſtantibus, inter prad R.P.qui tam pro dict. Dom. Rege, quam ſeipſo in hac parte ſequitur; Et prad.E.S. per Trin. Record. Anno 16 Regni Regis Caroli Secundi.*

Theſe muſt be ingroſſed in Parchment, and the *Attorney generals* hand muſt be to them both.

Be in all other Caſes between party and party, if one or two of the Jury be wanting, the Judge will grant a *Tales*; all which *Tales de Circumſtantibus*, muſt be entred upon the return of the *Poſtea*, together with the Judgement upon the Iſſue-Roll.

After a tryal at the *Aſſizes*, the beginning of the following Term, the *Attorney* on whoſe ſide the Cauſe went, ought to call for the return of the *Poſtea*, from the

the Clerk of the *Aſſize* of the County where the cauſe was tryed : and if the verdict went for the Plaintiff, the defendant hath four days within the following Term, to move in *Arreſt* of Judgement, if he ſee cauſe: or if a cauſe be tryed by *Niſi prius* in *London*, in the Term-time, then the defendant hath four days next after the tryal to move in *Arreſt* of Judgement.

After your *Poſtea* is returned, you are to carry it to the *Prothonotary* in whoſe Office the Record is entred, and he will ſign Judgement with coſts as the cauſe requires, upon the *Poſtea*; which you are to carry thence to the Clerk of the Judgements belonging to that Office, who will thereupon make you out what execution you pleaſe.

SECT. VI.

The manner how to reverſe an Outlawry.

IF a man be ſued to an Exigent, and doth not appear at or before the Return thereof, by *Superſedeas*, you are to call for a Return of the Exigent, and of the Proclamation; which when you have returned the defendant outlawed, carry the Exigent ſo returned to the Outlawry office, where the Clerk of the Outlawries will file it, and make you out either a general *Capias utlag.* againſt the body only, or a ſpecial Writ againſt body, goods and lands.

And now the Defendant being outlawed, he is diſabled to ſue, or take the benefit of the Law againſt any man, ſo long as he remains outlawed, becauſe he is *Extra legem poſitus* : neither can he appear to the Plaintiff at whoſe ſuit he was outlawed, but he muſt reverſe the Outlawry, and put in ſpecial bail, if the debt be twenty pounds or above.

So that the defendant being outlawed, he must reverse the Outlawry, and appear upon a new original.

Now the easiest way of reversing an Outlawry in the Court of *Common Pleas*, is, first to get a Copy of the *Exigent*; which to obtain at the Outlawry-office, you may have a note of direction how to find it, at the *Custos brevium*, where you are to search for it; and when you have found it, bespeak a copy thereof; which when you have gotten, observe carefully whether you can finde any errors therein; as the insufficient return of the *Exigent*, if there be any insignificant word therein, or any material word omitted, or want of form or a word therein not truely written in the dashes, or for want of a Proclamation: all these are good causes of reversals. When you have found an Error, then go to the *Custos brevium*, and bespeak the bundle of Writs to be brought into the Court the next day, and there shew to the *Secondary* or *Prothonotary* the Error upon the *Exigent*, which is shewn unto one of the Judges in Court; and afterwards the *Prothonotary* takes a note of the Error, and makes a Certificate to the Outlawry-office of the reversal; which Certificate being brought to the Clerk of the Outlawries, he marks the Outlawry-book discharged; and then is the reversal drawn up in paper, and entred upon the Roll, and the defendant restored in *Statu quo prius*.

This is the most usual and ready way of reversing an Outlawry, if a man be outlawed, and neither his body, goods nor lands, be taken or seized by the *Capias utlag.*

There is another way of reversing an Outlawry, by Writ of Error. If the defendant his body or goods be taken upon the *Capias Utlag.* in the Vacation-time, then his Attorney is to go to the Clerk of the Errors: and if the action be debt above twenty pounds, he must put in special Bail; or the Attorney must under-

take

take that bayl ſhall be put in, before he can have a *Superſedeas* for the Defendants diſcharge: which being done, the Clerk of the *Errors* will make out a *Superſedeas* to the Sheriff for the Defendants diſcharge; which being delivered to the Sheriff, he is forthwith to diſcharge both the party and his goods, if both be taken; or if they be not taken, then he is to forbear.

But if a man be outlawed after Judgment, then this kind of reverſal will not be allowed: for an outlawry after Judgment cannot be reverſed until the Plaintiff hath acknowledged ſatisfaction upon record, or the Defendant hath paid the money into the court.

A woman cannot properly be ſaid to be outlawed, *Utlagata*, or *extra legem poſita*; but *waviata*, that is, waved, left out, or not regarded; becauſe women are not ſworn to the Law; (which probably cauſed the ſhe-Saints of late, to be ſo apt to ſtir up their Husbands to Rebellion.) The VVrit of Outlawry of a woman is called *Waviaria mulieris*: a woman outlawed is a *Waive*; and therefore the words in the *Exigent* are, *Quouſq; ſecundum legem & conſuetudinem Regni noſtri Angliæ, Waviaretur*; and not *Utlagaretur*, as it is againſt a man.

SECT. VII.

How to remove a Priſoner out of any inferiour priſon to the Fleet; or to remove a Cauſe out of any inferiour Court into the Common Pleas.

IF a man be in priſon in the Country, and you would remove him to the Fleet, if there be no Cauſe depending againſt him in the *Common Pleas*, and

and you would remove him, th'way must be to charge him either with an Attachment of priviledge at an Attorney's suit, or a *Capias* at any friends suit; and afterwards bring your writ of *Habeas Corpus cum causa*; and then the cause in the *Common-pleas* being returned amongst the other causes, the prisoner will be turned over to the *Fleet* with his causes.

But if you would remove any cause out of any inferior Court or Corporation; if the debt or damages exceed five pounds, you may have a writ of *habeas corpus cum causa* directed to the Court where the action depends: which if it be in or about *London*, must be returnable *immediatè* at the Judges chamber; but if in the Country, then it must be returnable at a day certain in court, in Term-time: and upon the removal, the Defendant must put in special baile above before a Judge; or for want thereof, the Plaintiff may get a *Procedendo*, and bring it down again.

You must be very careful in the direction of your Writ: for your instruction wherein, I have set down the Stile of all courts in *England*, and likewise special Directions for special Writs.

SECT. VIII.

General directions for Writs of Habeas Corpus, *Error or Priviledge.*

A

St. Alban in Com. Hertf.

SEneſcallo Cur. de Record. Burgi noſtr. Sancti Albani in Com Hertf.

Aliter.

Aliter.

Majori & Burgenſ. ac Seneſcallo Curie noſtre de Record. ipſo Seneſcallo infra Burgi Sancti Albani in com. Hertf. et eorum cuilibet, ſalutem.

Aldborough.

Ballivis ville de Aldborough.

Cur. Admiralitatis.

I. P. ſupreme Curie Admiralitatis Angl. Mar. ejuſve deputatis legitimis ibidem.

Abington Vill.

Majori Ballivis & Burgenſ. Burgiſui de Abingron, et eorum cuilibet, ſalutem.

St. Albans in Com. Hertf.

Preclariſſimo C. H. magno Admirallo noſtro Anglie, ſive ejus locum tenenti, aut deputat. Seneſcallo de Record. tenent. infra Burgium Sancti Albani in Com. Hertf.

Abendon.

Majori et Ballivis Ville de Abendon, et eorum cuilibet.

Adven.

Majori et Ballivis Ville noſtre de Adven, et eorum cuilibet.

Aburgavenny in Com. Mon.

Seneſcallo et Ballivis Henricus Nevil. Milit. Dom. Aburgavenny, Ville ſue de Aburgavenny.

Aldburges.

Seneſcallo Manerii noſtri de Aldburges in Com. Eborum, ſalutem.

Allerton.

Ad Curiam Thome Com. Exon. Manerii et Libertatis ſue de Allerton in Com.

Appulbie.

Majori Burgi ſui de Appulby in Com. Weſtmerl. ſalutem.

Alesbury.

Alesbury.

Ballivis Ville ſue de *Alesbury* in com. Buck. ſalutem.

Arundell.

Majori & burgenſ. burgi ſui de *Arundel* in com. Suſſex. ſalutem.

Andever.

Ballivo & burgenſ. burgi ſui de *Andever* in com. Southampt. ſalutem.

Avendon.

Majori & Ballivis Ville noſtre de *Avendon* in com.

B

Civitat. Briſtol.

MAjori *Aldermannis* ac Vic. Civitatis ſive Vill. Briſtol, ac Majori & Conſtabular. Stapule ejuſdem civitatis ſive ville, necnon Ballivis Majori communitat. ejuſdem civitatis ſive ville curie ſue tol. ac Ballivis dict. Majoris & communitat. ejuſdem civitat. ſive ville curie pedis pulverat. & eorum cuilibet, ſalutem.

Bridgewater.

Majori & Ball. ville ſue de Bridgewater, ſalutem.

Beverley.

Majori & Gubernatoribus ville noſtr. de Beverley in com. Ebor.

Bedford.

Majori Aldermannis burgenſ. & Recordator. burgi ſive vill. de Bedford.

Boſton in Com. Linc.

Majori & burgenſ. burgi noſtri de Boſton in com. Lincoln.

Bridgenorth Salop.

Ballivis & burgenſ. ville noſtre de Bridgenorth, & eorum cuilibet.

Burgis

Burgi de Beawdley.

Ballivo & burgenſ. burgi noſtri de Bewdley in Wigorn.

Barnſtable.

Majori Aldermannis & burgenſ. burgi ſive ville de Barnſtable, alias Barſtable.

Banbury in Com. Oxon.

Majori aut ejus deputat. uno Aldermanno, Recordatori vel ejus deputat. duobus capitalib. burgenſ. burgi de Banbury in Com. Oxon. vel trib. eorum, ſalutem.

Banbury.

Ballivis Lanceloti Epiſc. Lincoln. Cur. ſue de Banbury.

Bath.

Majori Aldermannis Recordat. & Juſtic. Civitat. noſtre Bath.

Barwick.

Majori Ville Barwick ſuper Twedam.

Battell.

Seneſcallo & ballivis A. Brown. Milit. Dom. Vic. Montague Libertat ſue de Battell in com. Suſſex.

Bury Sanct. Edmundi.

Alderm. Recordator & Capital. burgenſ. burgi noſtri de Bury Sancti Edmundi in com. noſtro Suff.

Burton ſuper Trent.

Ballivis & Seneſcal. T. Pagiit. Dom. Pager. burgi ſui de Burton ſuper Trent, & eorum cuilibet.

Bridewell.

Majori & Communitat. ac omnibus Civibus Civitat. London, necnon Gubernator. poſſeſſion. Bridewell & Sanct. Thome Apoſt.

Beverley.

Majori Gubernatori & burgenſ. ville ſue de Beverley, & eorum cuilibet.

Bodwyn.

Bodwyn.

Majori et Com. Clerico Burgi noſtri de Bodwyn.

Baverlacy.

Majori Recordator et Gubernatoribus Ville Beverlacey.

Bathon Civitas.

Majori Recordatori Aldermannis et Juſticiariis Civitatis Bathon. in Com. Somerſ. et eorum cuilibet, ſalutem.

Aliter.

Majori Juſtic. ac Recordatori Civitatis Bathon, ſalutem.

Bathon Epiſcopo.

Seneſcallo ſive Ballivo Curie ſue de placitis ad reverendum in Chriſto Patrem Dom. N. permiſſione divina Bathon. et Wellen. Epiſcop. pertinen. ſive Conceſſ. tent. apud Guildhal infra Burgum et Villam noſtram de Wells in Com. Somerſ. ſalutem.

Bidyford.

Majori Aldermannis Burgenſibus et Recordatori ville ſue de Bidyford in Com. Devon. ſalutem.

Brownſhall.

Ad hundred. Johannis D. Manerii ſue de Brownſhall in Com.

Badbury.

Ad hundred. Mountjoy Blunt Dom. Mountjoy de Badbury in Com.

Blanford Forum.

Ballivo et Conſtabulariis Burgi ſue de Blanford Forum in Com. Dorſet, ſalutem.

Aliter.

Ballivis et Conſtabulariis Burgi ſue de Blanford Forum in Com. Dorſet. parcell. Ducatus ſui Lancaſt. ſalutem.

Blechlinlie.

Burgenſibus Burgi ſui de Blechlinlie in Com. Surry, ſalutem.

Bromchard

Bromchard

Ad Curiam F. Ep. de Bromchard Forren. in Com.

Brighouſe.

Ad Curiam M. E. de Brighouſe in Com.

Barneſly.

Ad Curiam Manerii noſtri de Barneſly in Com.

Borrowbrig.

Seneſcallo Burgi noſtri de Borrowbridge in Com. Eborum, parcell. Ducat. noſtri Lancaſtr. ſalutem.

Bruſtwick.

Ad curiam H. C. Militis manerii ſui de Bruſtwick. in Com.

Barnesley cum Dadworth.

Ad curiam Manerii de Barneſley cum Dadworth in Com.

Berealſton.

Majori et Burgenſibus Burgi ſui de Berealſton in Com. Devon. ſalutem.

Bridport.

Ballivis et burgenſibus burgi ſui de Bridport in Com. Dorſet. ſalutem.

Bedwyn magna.

Portgreve, Ballivo et burgenſ. burgi ſui de Bedwyn in Com.

Buckingham.

Ballivis et burgenſ. ville ſue de Buck. in Com. Buck. ſalutem.

Brackley.

Majori et burgenſ. burgi ſui de Brackley in Com. Northampt. ſalutem.

Bewdley.

Ballivo et burgenſ. burgi ſui de Bewdley in Com. Salop.

Boſſyn.

in Com. Cornub.

Cantuar.

C

Cantuar. C.

MAjori Civitat. Cantuar.

Cur. Palatii Archiepiſcopi in Cantuar.

Seneſcallo Libertat. Gilberti. Dom. Archiepiſcopi Cantuar. Cur' Palatii ſui infra civitat. Cantuar.

Ciceſter C.

Majori Aldermannis ac civibus civitat. Ciceſtr' ſalutem.

Colcheſter.

Ballivis Ville de Colcheſter.

Ceſtr. C.

Carolo Principi Wallie, duci Cornub. & Ebor. comiti Ceſtr. filio ſuo clariſſimo, ſive ejus camerario civitatis Palatini Ceſtr. vel ejus locum tenenti ibid.

Cantebr.

Majori & Ballivis ville Cantebr.

Coventr. C.

Majori & ballivis civitatis ſue Coventr.

Cheping Wycombe.

Majori ballivis & burgenſ. de Cheping-Wycombe.

Carlyon.

Majori & ballivis ville de Carlyon, & eorum cuilibet.

Cheltenham.

Capitali Seneſcallo ballivo & ſectatoribus Manerii burgi ſive ville de Cheltenham, necnon cuſtod. Gaole noſtre ib.

Cuſtod. Brevium in Communi Banco.

Dilecto & fideli noſtr. J. L. Cuſtod. Brevium noſt. de Communi Banco.

C. Cantuar.

Seneſcallo cur. Palatii Dom. Archiepiſc. Cant. in com. Kancii.

Clay

Clay juxta Mare in com' Nor.

Seneſcallo C. H. cur. ſue porte de Clay juxta Mare.

Chipping hamden.

Ballivis & burgenſ. burgi noſtri de Chipping hamden in com. Glouc.

Caſtle Riſing.

Majori ville ſue de Caſtle riſing.

Cinq; Ports.

Dilecto & fideli conſiliar. noſtr. E. Z. St. Maurc. & Cantulpe Caſtri noſtr. Dover cuſtod. Cancellario & Admirallo Cinq; Portuum noſtror. & membror. eorundem, ſive ejus locum tenenti vel deputat. ibidem, ſalutem.

Clinke.

Seneſcallo cur. Libertatis reverendi in Chriſt. Patr Dom. Tho. epiſc. Winton. Manerii ſui de Southwarke.

C. Carlike.

Majori & ballivis civitatis Carlicke.

Cheney Court.

Ballivis Reverendi in Chriſt. Patris T. epiſc. C. cur. ſue de le Cheney Court.

Cantuar. Pal.

Seneſcallo cur. Palatii Dom. Archiepiſc. cant.

Ceſtr.

Camerario com. Palatini noſtri Ceſtr. ſeu ejus locum tenem. ibidem, ſalutem.

Cantabr. Univerſitas.

Procancellario Univerſitatis Cantabr. ſalutem.

Carleil.

Majori & ballivis ville de Carleil. in com. & eorum cuilibet, ſalutem.

Carlic civitas.

Majori & ballivis civitatis Carlick in com.

Coldfield Sutton.

Gardiano & ſocietati ville noſtre de Sutton Coldfield in com. War.

Calue.

Conſtabulario & burgenſibus burgi ſui de Calue in com.

Cricklard.

Ballivo & burgenſibus burgi ſui de Cricklade in com. Wilts, ſalutem.

Carisbrooke.

Clariſſimo conſanguineo ſuo H. comiti Sourhampt. Conſtabulario caſtri ſui de Caresbrooke in com. Sourhampt. vel ejus locum tenent. ac portatori, ſive ejus Deputat. ibid.

Chagford Stanner.

Prechariſſimo conſanguineo ſuo VV. comiti Pembrooke Camerario hoſpitii ſui, preclari ordinis Garterii Milit. cuſtodi Stannar. in com. Devon. & Cornub. Capitali Seneſcallo totius Ducat. Vic. Subſeneſc. Deputat. ſive ejus locum tenenti curie Stannar. de Chagford in com. Devon. ſalutem.

Clitheroe.

Ballivo burgi ſui de Clitheroe in com. Lancaſtr. ſalutem.

Commiſſario curie Archiep.

A. B. Auditori cauſarum venerabilis in Chriſto patris G. Archiepiſc. Cant. totius Anglie primat. cauſar & negotior. cur. & Audientie ſue.

Commiſſario curie London. Aliter.

A. B. Commiſſaria Generali R. Epiſcopi London. curie ſue Chriſtianitatis apud

tenend. vel ejus locum tenenti.

Chipping Norton.

Ballivis Seneſcallo ſive communi clerico vel Deputat. ejus burgi ſive Ville de Chipping Norton in com. Oxon. ſalutem.

Cheſthunt.

Seneſcallo curie.

L. militis manerii ſui de Cheſthunt in com. Hertf.

Chriſtchurch.

Chriſtchurch.

Majori & burgenſibus burgi ſue de Chriſtchurch in com. Southampt.

Cancellario Angliæ.

Predilecto & fideli ſuo A.B. Cancellario ſuo Anglie.

Cuſtodi Sigilli magni.

Predilecto & fideli ſuo J. VV. Epiſcopo Lincolne, & cuſtodi magni Sigilli ſui Anglie.

Cuſtodi privati Sigilli.

E. comiti Wigorne & cuſtodi privati Sigilli ſui.

Chirographario de Banco.

A. C. Armigero Chirographario curie noſtre de Banco, ſalutem.

Cullenbecke.

Seneſcallo curie ſue de Cullenbecke in com.

Carnanton.

Seneſcallo & Ballivo Manerii ſui de Carnanton in com. Cornub. ſalutem.

Carvice, Carvion.

Majori & ballivis Ville de Carvion in com.

Cramborne.

Ad hundred cur. VV. comitis Sarum. Manerii ſui de Cramborn in com.

Chepſtowe Villa.

Seneſcallo & ballivis Ville de Chepſtowe in com. Monmouth.

Chepſtow. Admiralitat.

Seneſcallo curie Admiralitatis in Chepſtowe in com. Monmouth, ſalutem.

Carlion.

Ad curiam VV. comitis Pembrooke de Carlion in com.

Corf-caſtrum.

Majori & Seneſcallo de Corf-caſtle in com. Dorſet.

Chriſti Eccleſiæ Cantuarienſ.

Seneſcallo &c. curie Decani & Capituli Eccleſiæ

Chriſti Cantuar.

Camelford.

Majori & burgenſibus burgi ſui de Camelford in com. Cornub.

Carlington.

Majori & burgenſibus burgi ſui de Carlington in com.

Caſtri Epiſc. Villa in com. Salop.

Ballivo & burgenſibus ville Caſtri epiſcopenſ. in com. Salop, ſalutem.

Cliſton. Dartmouth. Hardnes.

Majori Ballivo & burgenſibus burgi ſui de Cliſt. Dartmouth, Hardnes in com. Devon, ſalutem.

Caſtri Novi ſubtus Linam.

Majori & burgenſibus burgi ſui novi Caſtri ſubtus Linam in com. Staff. ſalutem.

Caſtri Novi ſup. Tinam.

Majori & Ville Caſtri novi ſup. Tinam. in com. Northumber.

This was lately made a county Palatine (unde quere.)

Clurſland. Stat. Stannar.

Gardiano Stanner. Devon. & Cornub. et capitali Seneſcallo Ducat. ſuo Cornub. aut ſuo Deputat. ibid. Et præcipue ſibi aut ſuo Deputat. Seneſcallo infra Manerium de Stan. Clunſland, parcel. Ducat. Cornub. pred. infra com. Cornub. *&c.*

Cantuarien. Provincie Supremis commiſſion.

Reverendiſſimo in Chriſto Patri G. providentia divina Cantuar. Archiep. Primat. et Metropolitano. Ac aliis ſupremis Commiſſionar. Reg. ad cauſas Eccleſiaſticas inter alias ſub magno ſigillo Anglie legitime et ſufficient. authoritat.

Dart.

D

Dartmouth.

MAjori ballivis & burgi sui de Clifton, Dartmouth, Hardnes.

Devises.

Majori balliva & burgens. burgi nostre de Devises.

Dunelm.

Reverendo in Christo Patri W. D. Episcop. sive ejus locum tenenti ibidem, salut.

Derbie.

Ballivis Recordatori & burgens. ville sive burgi ville de Derbie, salutem.

Denbigh.

Ballivis & Recordatori burgi sive Ville de Denbigh, salutem.

Doncaster.

Majori & Recordatori ville de Doncaster, & eorum cuilibet.

Donwich.

Ball. ville sive burgi de Donwich in com. Suff.

Dover.

Constabular. nostris Castri nostri de Dover infra libertat. quinque Portuum in com. nostro Kanc. sive deputat. ejus ib. seu eorum alteri.

Donhevid.

Majori Aldermannis & Recordatori burgi de Donhevid alias Launceston.

Derbie.

Ballivis & burgen. burgi nostr. Derb.

Sede vacante.

T. C. armigero Cancellario com. Palentini Dunelm. sede Episcopali ibid. jam vacante.

Aliter in alio libro.

Cuſtodi Spiritualitatis Epiſcopatus Dunelm. ſede Epiſcopali vacante.

Danx.

Ballivo A. D. M. manerii ſui de Danx in com. Ebor.

Downton.

Conſtabulario et burgenſibus burgi ſui de Downton in com.

Dorcheſter.

Ballivo et Recordatori burgi ſui de Dorcheſter in com. Dorſet.

Droitwich.

Ballivis et burgenſibus burgi ſui de Droitwich in com.

Downhevid alias Launceſton.

Majori Aldermannis Recordatori burgi ſui de Downhevid, alias Launceſton, in com. Cornub.

Daventrie.

Ballivo burgenſibus et communitati de burgo de Daventrie in com. Northampt. ſalutem.

E.

C. Eborum.

MAjori Aldermannis et Vic. Civitatis Eborum.

C. Exon.

Majori et ballivis civitatis ſue Exon. ac Ball. cur. pro veſtr. ejuſdem civitatis et eorum cuilibet in com. Devon.

Sancti Petri Ebor.

Seneſcallo cur. libertat. Decani et capatuli Eccleſie Cath. Sancti Petri Ebor.

Eſtretford.

Ballivis Ville ſue de Eſtretford in com. North.

Eye.

Ballivis noſtris Ville et burgi de Eye, ſalutem.

Eſcatori.

A. B. Armig. Eſcatori noſtro com. noſtri Salop. ac vic. ejuſdem com. Necnon omnibus ballivis et ſingulis miniſtris noſtr, com. prædict. tam infra Libertates quam extra, ſalutem.

Eveſham, commonly *Eſom* in the Vale.

Majori et burgenſibus burgi ſui de Eveſham in com. Wigorum, *&c.*

Edlogum.

Ad curiam E. M. *A*rmig. manerii ſui de Edlogum in com.

Elye.

Juſtic. Epiſcop. Elien. ad placita infra inſulam Elien. tenend. *Ac* Seneſcallo ejuſdem Epiſcopi infra libertatem inſule pred. et eorum cuilibet, ſalutem.

Eborum beati Petri.

Seneſcallo curie libertatis Decani et capitali Eccleſie et Metropolitic. beati Petri Eborum in com. Ebor.

Epiſcopenſ. caſtrum com. Salop.

Ballivo et burgenſibus Ville caſtri Epiſcopenſis in com. Salop.

Eaſt-low.

Majori et burgenſibus burgi ſui de Eaſt-low in com. Cornub.

Eaſt greenſted.

Ballivo et burgenſibus burgi ſui de Eaſt-greenſted in com. Suſſex, ſalutem.

Evermouth.

Majori et burgenſibus Ville ſue de Evermouth in com. Southampt.

F

Forien. juxta Salop.

SEneſcallo & Ball. Liberrat. Forien. oriental. juxta vill. Salop.

Fleete.

Gardiano priſone noſtre de le Fleete, ſeu ejus locum tenent. ibidem.

Le Fleete.

Gardiano priſone noſtre de le Fleete, ſive ejus locum tenenti ibid. ſalutem.

Franham.

Ballivis burgi & ville de Franham, in com Surry.

Aliter.

Seneſcallo curie Caſtri reverendi in Chriſto Patri Dom L. Winton. Epiſcopi Manerii ſui de Franham in com. Surry.

Fordington.

Ad curiam Caroli Principis Wallie, ducis Cornubie & Eborum, & comitis Ceſt. manerii ſui de Fordington in com. Dorſet.

Foway.

Prepoſitis & burgenſibus burgi ſui de Foway in com. Cornub. ſalutem.

G

Gippvicus.

BAllivis Ville ſue Gip. in com. Suff. ſalutem.

C. Glouc.

Majori Aldermannis & vic. civitatis noſtre Glouc.

Guilford.

Majori & probis hominibus ville noſtre de Guilford.

Graveſend.

Gravesend & Milton.

Preposit Jur. & capital Inhabitant. villarum & Paroch. de Gravesend & Milton in com. Kanc.

East-greensted.

Ballivo & burgensibus burgi sui de East-greensted in com. Sussex, salutem.

Gipwicum or Ipswich.

Ballivis ville sue de Gipwici in com. Suff. salutem.

Gatehouse Westminster.

Custodi nostro de le Gatehouse infra Westmonasterium.

Gillingham.

Senescallo curie sui de Gillingham, in hundred. de Gillingham, in com. Dorset. hac vice sede Archiepisc. Cantuar. jam vacante, seu ejus deputat. ibid. salutem.

Glastonbury.

Curie libertatis Dom. Regis de Glastonbury in com. Somerset.

Aliter.

Curie Dom. Regis xij. Hidari de Glaston. libertatis in com. Somers.

Goodrich.

Ballivis W. M. armig. & B. H. gen. manerii sive Dom. sui de Goodrich in com.

Grampount, or *Crampound.*

Majori & burgensibus burgi sui de Crampound in com. Cornub.

Grimsbie.

Majori & burgensibus Ville sue Magni Grimsbie in com. Lincoln.

Grantham.

Aldermanno & burgensibus ville sue de Grantham in com. Linclon, salutem.

Gatton.

Burgensibus burgi sui de Gatton in com. Surrey.

Haveringe

H

Havering at Bower.

SEneſcallo & ſectatoribus cur. Manerii noſtri de Havering at Bower.

Havengate Bower.

Seneſcallo & ſectatoribus domino Anne Regine Angl. conſortis ſue præcharitſime.

Heſton.

Majori & ballivis burgi noſtri de Heſton in com. Cornub.

Heref. C.

Majori Aldermanis et Civibus civitatis noſtri Hereſ.

Harwich.

S. Majori et ſeneſcallo burgi Herwici.

Higham-Ferrers.

Majori Aldermanis Ville noſtre de Higham-ferrers, et eorum cuilibet.

Hunt.

Ballivis ville noſtre Hunt.

Henly ſuper Thames.

Ballivis Gardian. Pontinariorum burgenſium et civitatis ville de Henly ſuper Thames.

Hertf. vill.

Majori et capitall. burgenſ. burgi noſtri de Hertf. necnon ſeneſcallo cur. noſtre de Record. ibidem.

Hexham.

Seneſcallo curie ſue de Hexham in com. Weſtmerl.

Aliter.

Seneſcallo Manerii noſtri de Hexham in com. VVeſtm.

Harbil.

Ad VVapentagium noſtrum de Harbil. in com.

Hartpoole.

Majori et burgenſibus burgi ſui de Hartpoole infra Epiſco-

Episcopatum Dunelm.

Heydon in Holdernes.

Majori et ballivis Ville sue de Heydon in Holdernes in com. Ebor.

Hunnington burgus in com. Southampt.

Hatfield.

Ad curiam manerii nostri Hatfield in com.

Helston.

Majori & burgensibus burgi nostri de Helston in com. Cornub.

Heref. Pal. Episcop.

Ad curiam S. Episc. Hereford. Palatii Heref.

Henley super Thamesin.

Ballivis Gardian. burgensibus & communitat. Ville de Henley super Thamesin, in com. Berks, salutem.

Haselmere.

Burgensibus burgi sui de Haselmere in com. Surry.

Horsham.

Majori & burgensibus burgi sui de Horsham in com. Sussex, salutem.

Heitisbury.

Ballivo & burgensibus burgi sui de Heitisbury in com. Wilts, salutem.

J

Insul. Elin:

JUstic. nostr. ad placita infra insul. Elin. in com. Cantabr. tenend. assign.

Jernemouth.

Ball. Ville sive burge & libertat. ville sive burgi magne Jernemouth (alit.) ballivis ville nostr. magni Jernem.

Kings-

Jernem. ſalutem.

Juſticiarius ad placita.

Jacobo Ley militi capital. Juſtic. noſtro ad placita coram nobis tenend. aſſignat.

Juſtic. de Banco.

H. A. militi & baronetto capitali Juſtic. noſtr de Banco.

St. Johannis Beverlacie.

Seneſcallo curie libertatis Ante placitorum Sancti Johannis Beverlacie in com. Ebor. ſalutem.

St. Ives.

Prepoſit. & burgenſibus burgi ſui de St. Ives in com. Cornub.

St. Jermyns.

Prepoſit. & ſeneſcallo burgi de St. Jermyns in com. Cornub.

K

Kingſton ſuper Hull.

MAjori & vic. ville noſtre de Kingſton ſuper Hull.

Kingſton ſuper Thames.

Ballivis & ſeneſcal. cur. ville noſtre de Kingſton ſuper Thames; & in abſence dicti ſeneſcal. Ball. et Recordator. ejuſdem ville, five duobus eorum.

S. Katherine ſſ.

Seneſcall Magiſtr. ſive cuſtod. Hoſpital. ſive libere capelle Sanct. Katherine prope Turrim London in com. Midd. ſeu ejus locum tenen. ibidem.

Aliter.

Seneſcall. libertat. Magiſtr fratrum et ſororum et capell. in Eccleſiæ Hoſpitalis Sanct. Katherine Virginis et Martyris prope Turrim London, cur. noſtre ibidem, necnon ballivo ejuſdem.

Kerby Kendal.

Aldermanno Recordatori et burgenſ. burgi de Kerby.

King-

Kings-Norton.

Seneſcallo ballivo ac ſectatoribus curie manerii de King-Norton in com. Wigorum, & eorum cuilibet, ſalutem.

This was the late Queens, and before her death it was ſtyled accordingly.

Kendal.

Ballivis manerii noſtri de Kendal in com. Weſtmerl.

Knaresborough.

Seneſcallo curie Honoris de Knaresborough in com. Ebor. parcell. Ducat. noſtri Lancaſtr.

Killington burgus.

in com. Cornub.

L

Lyn Regis in Norf.

MAjori & Recordatori Ville ſive burgi de Lyn Regis in com. Norf. & eorum utrique.

London.

Majori Alderman. & Vic. London, ſalutem.

Lyn Epi.

Majori Ville de Lyn Epi.

Litchfield ſſ.

Ball. Libertat. Litchfield. Un. Vic. in com. Staff.

Lincoln.

Majori Vic. & civibus civitat. ſue Lincoln.

Lidiford.

Majori & burgenſ. burgi de Lidiford.

Lanceſton, al. Downhennet.

Majori & communitat. burgi de Lanceſton, alias Downhennet.

Lud-

Ludlow,

Ballivis ville de Ludlow.

Lyn Regis in Dorſ.

Majori ville noſtre de Lyn Regis in com. Dorſ.

Liſcared alias Liskerd.

Majori & burgenſ. burgi de Liſcaret alias Liskerd.

Lincoln.

Ball. Decani & capitul. Eccleſie Catholic. beate Marie Lincoln. cur. ſue Baole infra clauſum ibidem.

Leiceſt.

Majori ballivis & burgenſ. burgi ſui Leic.

Lancaſtr.

Cancellar. noſtro com. Palatini noſtri Lancaſtr. vel ejus locum tenen. ibidem: vobis mandamus quod per breve noſtrum ſub ſigillo com. Palatin. noſtri pred. debit. conficiend. mand. fac. vic. com. pred quod, *&c.*

London counters.

Majori *Aldermannis* ac vic. London, & eorum cuilibet, ſalutem.

Leiceſtr.

Major & burgenſibus Ville Leiceſtr.

Leoni.

Ballivo & burgenſibus de Leoni in com.

Ledbury.

Ballivo ſuo burgi ſui de Ledbury in com.
Necnon judicibus cur. ejuſdem burgi, ſalutem.

Lugharnes.

Ad curiam *R. H.* armig. de Lugharnes in com.

Lugwarden.

Ballivis *T. B.* armig. manerii ſui de Lugwarden in com.

Leominſter, which I take for *Lempſter.*

Ballivis & burgenſibus burgi ſui de Lempſter in com. Hereſ. ſalutem.

Lugburgh.

Ad hundred de *H. B.* milit. & baronetto de Lugburgh in com.

Loſtwich.

Loſtwich.

Majori & burgenſibus burgi ſui de Loſtwich in com. Cornub. ſalutem.

Lancaſter burgus.

Majori & ballivo bugi ſui Lancaſtr. in com. Lancaſtr.

Leverpool.

Majori & Aldermanno Ville ſue de Leverpoole in com. Lancaſtr. ſalutem.

Lewes.

Conſtabulario & burgenſibus burgi ſui de Lewes in com. Suſſex, ſalutem.

Ludgerſhall.

Burgenſibus burgi ſui de Ludgerſhal in com. Wilts, ſalutem.

Lymington.

Majori & burgenſibus burgi ſui de Lymington in com. Southampt. ſalutem.

M.

Maidſtone.

MAjori ville ſive Parochie de Maidſtone.

Marleberge.

Majori & burgenſ. burgi & ville de Marleberge in com. Wilts.

Maldon.

Ballivis ville ſue de Maldon in com. Eſſex.

Maidenhead.

Gardiano Pontenariis burgenſ. & Communalitat. Ville de Maidenhead in com. Berks.

Melcomb Regis.

Majori Ville ſue de Melcomb Regis.

Weymouth & Melcomb Regis.

Majori Aldermannis ballivis burgenſ. & Communalitat. Ville de Weymouth & Melcomb Regis in com. Dorſ.

Myne-

Mynehead.

Prepoſit. et burgenſ. burgi de Mynehead in com. Somerſ.

Monmouth.

Majori et ballivis ville ſue de Monmouth.

Marr. Mareſ.

Marr. Mareſ. noſtre in curia noſtra coram nobis.

Mar. hoſpick. nova cur.

Seneſcallo curie Mareſeal Hoſpitii noſtri ac Marr. noſtro ejuſdem Hoſpitii, necnon Judicibus cur. virge Hoſpitii pred. et eorum deputat. ibidem.

St. Martins le Grand London.

Seneſcallo Decani et capituli Eccleſie Collegiat. beati Petri VVeſtm. cur. libertatis ſue, ſive precinct ſancti Martini le Grand London, et Conſtabular. ibidem, ſalutem.

Mar. hoſpic.

Judicibus curie virge hoſpitii noſtri, vel ejus deputat. ibidem, ſalutem.

Mandeville.

Seneſcallo et balliva honoris de Mandeville parcell. Ducat. Lancaſtr. ſalutem.

Midhurſt.

Ballivo et burgenſibus burgi ſui de Midhurſt in com. Suſſex, ſalutem.

Malton.

in com. Eborum.

Marden.

Ballivis ſuis manerii de Marden, alias Mawrden, alias Mawrchin in com.

Magor & Redwicke.

Ad curiam E. comitis Wigorum de Magor. & Redwicke in com.

Malmesbury.

Aldermannis et burgenſibus burgi ſui de Malmeſbury in com. Wilts, ſalutem.

Morpeth.

Morpeth.

Ballivis & burgenſibus burgi ſui de Morpeth in com. Northumb.

Michael.

Prepoſit. & communitatibus burgi ſui Michaelis in com. Cornub. ſalutem.

St. Mawes, alias St. Maries.

Majori Ville ſue St. Mawes, alias St. Maries in com: Cornub. ſalutem.

N

Newport.

MAjori & ballivis ville ſive burgi de Newport.

Novum Caſt. ſuper Tinam.

Majori, Alderman. & vic. ville Novi Caſtri ſuper Tinam.

Northton.

Majori & ball. ville noſtre de Northton.

Newark ſuper Trent.

Alderman & aſſiſten. inhabitant. ville & Parochie de Newark ſuper Trent, in com. Nott.

Norwici.

Majori & Vicomitibus civitat. Norwici vic. com. Norff.

Nott.

Majori Aldermannis & vic. ville Nott. 2. vic.

Newberry.

Majori Aldermannis & burgenſ. burgi de Newberry in com. Berks.

Civitatis Norwici.

Majori Vic. & Aldermannis civitat. noſtre Norwici, & eorum milit.

Novi Caſter ſubter Line.

Majori & burgenſibus burgi ſui Novi Caſtri ſubter

Linam in com. Staff.

Newton.

Ballivo & burgenſibus burgi ſui de Newton in com. Lancaſtr.

O

Oſweſtr.

BAllivis & burgenſ. ville de Oſweſtr.

Oxon.

Majori & ballivis civitatis Oxon.

Orford.

Majori & Portmams ville de Orford.

Oxon. Univerſitas.

Vice-cancellario Academie Oxon.

P

Poole.

MAjori ville de Poole, & ſeniori ballivorum ejuſdem ville.

Plymton-Morris.

Majori ballivis & burgenſ. burgi ſui de Plymton-Morris.

Peterburgh.

Seneſcallo curie Decani & Capituli Eccleſiæ Cathedral. civitatis de burgo Sancti Petri, & burgenſ. ejuſdem civitatis, & eorum cuilibet.

Plymouth.

Majori & Communitati burgi ſui de Plymouth.

Pawnton.

Seneſcallo & ballivis manerii ſui ville de Pawnton.

Portſmouth.

Majori *Aldermannis* & burgenſ. ville de Portſmouth

mouth, in com. Sutht.

Curie Palacii.

Judicibus curie Palacii noſtri Weſtm. & eorum cui libet.

Pevenſey.

Ballivo libertatis Ducat. ſui Lancaſtr. infra ripam ſuam de Pevenſey in com.

Penwith.

Seneſcallo & ballivo hundred. & libertatis ſue de Penwith in com. Cornub.

Padſtowe, alias Petrockſtow.

Majori & burgenſibus burgi noſtri de Padſtowe in com. Cornub.

Portland.

Ad curiam manerii ſui de Portland in com. Dorſet.

Portpigham or Portbighſam, alias Weſtlowe.

Majori & burgenſibus burgi ſui de Portpigham alias Weſtlowe in com. Cornub. ſalutem.

Pymberne.

Ad hundred. Willielm. comitis Sarum de Pymberne in com.

Preſton Andernes.

Majori & ballivis ville ſive burgi ſui de Preſton in com. Lancaſtr.

Pembrig.

Ballivo & ſeneſcallo ville ſive burgi de Pembrig in com.

Petersfield.

Majori & Communitatibus burgi ſui de Petersfield in com. Southamp. ſalutem.

Park.

Seneſcallo R. VV. armig. manerii ſui de Parke Lettys, alias Parte Lettys in com.

Pontfract.

Majori ville ſue Pontfract. in com. Ebor. parcell Ducat. ſui Lancaſtr.

Pickering.

Ballivis & ſectatoribus curie noſtre de Pickering in com. Ebor.

Q

Quinborough.

MAjoris & burgenſibus burgi ſui de Quinborough in com. Kanc. ſalutem.

R.

Ryalton.

SEneſcallo & ball. cur. manerii de Ryalton.

Reading.

Majori. Aldermannis, & burgenſ. burgi de Reading.

Rillaton.

Seneſcallo, Decemar. & prepoſit. ac liberis Tenentibus manerii ſui de Rillaton parcell. ducat. ſui Cornub.

Richmond in com. Ebor.

Aldermannis Recordari & burgenſ. burgi noſtr. de Richmond in com Ebor.

Roffen. C.

Majori & civibus civitatis noſtre Roffen.

Palatium Roffen.

Seneſcallo Reverend. in Chriſto patri Jo. Epiſc. Roffen. cur. Palacii ſui Roffen. ſalut.

Rumney marſh.

Ball. & Jurat. de Rumney Marſh. in com. Kanc.

Rippon.

Seneſcallo & ballivis libertat. cur. Canon, nuper Canonicorum & capituli Eccleſiæ Collegiat. de Rippon in com. (Eborum) parcel. Ducat. noſtr. Lanc.

Inquire

(Inquire if more Rippons.)

Rye-gate.

Ballivo & burgenſibus burgi ſui de Rye-gate in com. Surrey.

S

Salop.

BAllivis ville noſtre Salop, ſalutem.

Le Strand.

Ballivo libertat. Ducat. Lancaſter in le Strand in com. noſtr. Midd.

Saltaſh.

Majori & liberis burgenſ. ſui de Saltaſh.

Southold.

Ballivis ville noſtre de Southould, aliter ballivis & burgenſ. libertat. ville de Southould.

Southmoulton.

Majori & capitul. burgenſ. ville ſue Southmoulton.

C. Nov. Sar.

Ball. libertat. Epiſc. Sar. civitat. Nove Sar.

Staff.

Ball. & burgenſ. burg. de Staff.

Sudbury.

Majori Aldermannis burgenſ. & ſeneſcallo burgi ſive ville de Sudbury, & eorum cuilibet.

Manerium de Southwark.

Seneſcallo curie libertat. Reverendi in Chriſto Patris B. Winton Manerii ſui de Southwark in com. Surrey.

Compter in Southwark.

Seneſcallo curie libertat. Majoris communitat. ac civ. civitatis London burgi ſui de Southwark.

Scarborough.

Ballivis ville noſtr. Scarborough.

Southton Ville.

Majori & ball. ville Southton.

Aliter.

Majori & ball. ville noſtre Southton curie ſue pedis pulverizat. ibidem, necnon cuſtod. Gaole noſtre infra eandem villam ejuſdem deputat. ibidem, & eorum cuilibet.

Aliter.

Vic. Sutht. necnon cuſtod. Gaole noſtri caſtri Winton. ac civit. noſtre Winton.

Shaſton.

Majori Recordatori & burgenſ. burgi de Shaſton in com. Devonis.

Stoke-Clunſland.

(Tali Dom.) Gardiano. Stannar. Devon. & Cornub. & capitul. ſeneſc. ducatus ſui Cornub. aut ſuo deputat. ibidem, & precipue ſibi aut ſuo deputat. ſeneſcallo infra Maner. de Stoke-Clunſland parcel ducat. Cornub. pred. infra com. Cornub. pred. ſalutem.

Supremis Commiſſionarum Cantuarum provincia.

Reverendiſſimo in Chriſto Patri G. providentia Divina Cantuar. Archiepiſcop. primat. & Metropolitano, ac aliis ſupremis Commiſſionar. regis ad cauſis Eccleſiaſticas internal. ſub magno ſigillo Anglie legitime & ſufficient. authoritat.

Steford Eaſt, or Eaſt-Stretford.

Ballivis ville ſue de Eaſt-Stratford in com. Nott.

Slaughter.

Seneſcallo ballivo, & liberis ſectatoribus libertatis hundredi noſtri de Slaughter in com. Gloc. ſalutem.

Le Savoy extra Temple-Bar.

Ballivo libertatis ſue Lanc. de Savoy in com. Midd. ſalutem.

Spiritualis curiam.

J. L. Legum Doctori ac Audientie Reverendiſſimi in Chriſto patris G. Archiepiſcop. Cantuar. totius Anglie

Anglie primat. & Apoſtolici ſedis legalis cauſarum & negotiarum auditori.

Sherborn.

Ad curiam hundred. de Sherborn in com. (Dorſet.)

Stevinheath.

Seneſcallo prenobilis T. W. manerii ſui de Stevinheath.

Stepleton.

Seneſcallo curie T. C. militis, manerii ſui de Stepleton in com. ( )

Snaith.

Ad curiam noſtram de Snaith in com. ( )

Aliter.

Ballivis & ſectatoribus curie manerii noſtri de Snaith parcell. Ducat. Lanc.

Sheffield.

Ad curiam C. comitis Salop. de Sheffield in com. ( )

St. Jermins.

Prepoſit. & ſeneſcallo burgi de St. Jermins in com. (Cornub.)

Stamford.

Aldris & burgenſibus ville ſue de Stamford in com. Lincolne.

Stockbridge.

Ballivo & burgenſibus burgi ſui de Stockbridge in com. Southton.

Stayning.

Conſtabulario & burgenſibus burgi ſui de Steyning in com. ( )

Shoreham.

Conſtabulario & burgenſibus burgi ſui de Shoreham in com. Lanc.

Sarum vetus.

Burgenſibus burgi ſue veteris Sarum in com. Wilts.

Shaftbury.

Majori burgenſibus burgi ſue de (Shaftbury) in com. Dorſet.

Vide an ſit Shafton in Shaftbury.

T

Turris London.

WIllielmo Ward Militi Conſtabular. ſeu locum tenen. Turris London, necnon ſeneſcallo curie ejuſdem, & eorum utrique.

Torrington magna.

Majori Aldermannis & burgenſ. burgi ſive ville de Torrington magna.

Aliter.

Majori *Aldermannis* capital. burgenſ. & ſeneſcallo burgi ſive ville de Torrington magna in com. Devon.

Taveſtock.

Seneſcallo ſive ballivo F. comit. Bedf. libertat. ſue de Taveſtock.

Thackſteed.

Majori ballivis & communitat. burg. de Thackſteed, eorum cuilibet, ſalutem.

Thetford.

T. C. comit. *S.* capitali ſeneſcallo ville noſtre de Thetford parcel. Ducat. noſtri Lancaſtr. vel ejus deputat. ibidem.

Tolleboth.

Ball. de le Tolleboth ville de Lyn Epiſc.

Aliter.

Ball. cur. de le Talloth. ville de Venner. Epiſc.

Totnes.

Majori de burgenſ. burgi de Totnes, & eorum cuilibet.

Taunton

Taunton.

Ballivo Reverend. in Chriſto Patr. T. Epiſcopo Winton libertat. ſue de Taunton & Taunton-Dean.

Tewksburgh.

Ball. burgenſ. & communitat. burgi ſui de Tewksburgh.

Thetford.

Majori & Recordatori burgi noſtri de Thetford in com. Norf.

Tamworth.

Ballivo ville noſtr. de Tamworth.

Thremalton.

E. H. Preclari Ordinis Garterii Militi dom. Haſting de Loughborough, capital. ſeneſcallo noſtro ducat. noſtri Cornub. necnon feod. & Manerii de Thremalton, ſive ejus deputat. ibidem ſalutem.

Trebenin, alias Boſſiny.

Majori burgenſibus burgi ſui de Trebenen, alias Boſſiny in com. Cornub.

Truro.

Majori & burgenſibus burgi ſui de Truro in com. Cornub.

Tregoni.

Seneſcallo & ballivo H. P. Manerii ſui de Tregoni P. in com. Cornub.

Trellock.

Majori & ballivis W. comitis Pembrooke ville ſue de Trelock in com. (Cornub.)

Tregony.

Ad curiam *A. W.* arm. de Tregony in com Cornub.

Tickhill.

Ad curiam noſtram honoris noſtri de Tickhill in com. (Ebor.) parcel. Ducat. ſue Lanc.

Turman-hall.

Ad curiam W. B. manerii ſui de Turman-hall, in com.

com. ( )

Trennaton.

Chariſſimo conſanguineo ac predilecto & fideli conſiliario noſtro Willielmo comiti Pembroke, Domino camerario hoſpitii noſtri, prenobilis ordinis Garterii milit. capital. feneſcallo Ducat. noſtri Cornub. Necnon feod. & manerii de Trennaton in com. Cornub. ſive ejus deputat. ſalutem.

V

Uske.

PRepoſitis & ballivis ville ſive burgi de Uske.

W.

C. Weſton.

BAllivo libertat. Decani & Capituli Eccleſie Collegiat. beati Petri Weſtm.

Wallingford.

Majori Alderm. & Recordatori burgi ſive ville de Wallingford.

Wenlock.

Ball. & Seneſc. ville & libertat. de Wenlock magna.

Warwick.

Ball. & Recordator. burgi noſtri Warwici.

Wotlow.

Ball. ville de Wenlow.

Wye.

Seneſcallo & ball. H. C. Nobil. ordinis Garterii Mil. Dom. Hunſdon Reg. Maner. de Wye in com. Kanc. & eorum cuilibet.

Wigorn. C.

Ballivis Alderm. & Camerar. civitat. noſtre Wigorn.

Wigmore.

Seneſcallo & ballivo ville ſive burgi de Wigmore.

Nova

Nova Windſor.

Majori ball. ac burgenſ. ville ſive burgi noſtri de Nova VVindſor in com. Berks.

Aliter.

Majori Alderm. ballivis & ſubſeneſcallo burgi de Nova VVindſor.

Caſtrum Wind.

T. C. conſtabular. Honoris & caſtri ſui de VVindſor, ac cuſtod. Foreſt. ejuſdem, aut ejus locum tenen. ſue ejus deputat. ibidem.

C. Winton.

Majori, Recordatori, vel ejus deputat. ball. civitat. noſtre VVinton, & eorum cuilibet.

Woodſtock.

Majori ville ſue de Nova VVoodſtock.

Aliter.

Majori & Communitat. burgi Nova VVoodſtock.

Cur. Waittel.

Ballivis & ſectatoribus curie ſue de VVaittel.

Caſt. Windſor.

Carolo comiti Nottingham, Baron Howard de Eſſingham, preclari Ordinis Garterii Milit. magno *Admirallo Angl.* conſtabular. honorum Caſtri Dom. Regis de VVindſor, ac cuſtod. totius Foreſt. ibidem, Janitori extr. portum dicti Caſtri, ſalutem.

Weſtmon. Dean and Chapter.

Ballivo libertat. Decani & Capitulis Eccleſie collegiat. beati Petri VVeſtm.

Wellen curia Epiſcop.

Seneſcallo ſive ballivo curie reverendi in Chriſto Patris J. Bathon. & VVellen Epiſcopi.

VVellen burgus.

Seneſcallo ſive ballivo curie noſtre de placit. ad reverend. in Chriſto Patrem Dom. J. permiſſione Divina Bathon. & VVellen. Epiſc. perton. ſive conceſſ. tent. apud Guild-hall infra burgum & Villam noſtram de VVelles in com. noſtro Sommerſet. *VVolton*

Wotton Basset.

Majori & burgensibus burgi de Wotton Basset in com. Wilts, & eorum cuilibet.

Wike Regis.

Ad curiam dom. Regis Manerii sui de Wike Regis in com. ( )

Worham.

Majori & burgensibus burgi sui de Worham in com. Dorset.

Wormlowe.

Ballivis A. dom. Chandos & E. B. arm. Manerii sive hundred de Wormlowe in com.

Wickome.

Ball. ( )
Wickome in com. Buckingham. *Inquire Chipping Wickome before.*

Wilton super Wian.

Ballivis *A. B.* arm. Manerii sive dom. de Wilton super Wian in com. ( )

Wentworth liberty near London.

Ballivo Libertatis Thome dom. Wentworth in com. Midd.

Walsal.

Ballivis Manerii sui de Walsal in com. ( ) salutem.

Whitechurch.

Majori & Communitatibus burgi sui de Whitechurch in com. Southam.

Westbury.

Majori & burgensibus burgi sui de Westbury in com. salutem.

Aliter Hackney & Stepney.

Ballivo libertatis Manerior. de Hackney & Stepney in com. Midd.

Special

Special Directions.

Monmouth Escaetori.

ff. EScaetori ac vic. Monmouth, necnon ballivis singuliſque miniſtris noſtris, tam infra Libertatis quam extra, & eorum cuilibet.

Juſtic. inſul. Elien.

ff. Juſtic. Epiſc. Elien ad placita infra inſul. Elien tenend. ac Seneſ. Epi. intra libertatem inſule prædict. & eorum cuilibet.

Cuſtod. pacis infra libertatem.

ff. Cuſtos pacis ſue infra libertatem ville Sanct. Albani in com. Hertf.

Juſtic. ad Gaole delib.

ff. Juſtic. noſtris ad Gaole noſtram Caſtri Lincoln. de priſonariis in ea exiſten. deliberand. aſſign. ſalutem.

Vic. & Cuſtod. Gaol.

ff. Vic. Lincoln. & cuſtod. Gaole Caſtri noſtri Lincoln. ſive ejus locum tenen. aut deputat. ibidem, & eorum cuilibet.

Juſtic. Foreſte.

ff. Dilect. & fidel. ſuo *W.* comiti C. Juſtic. ſuo omnium Foreſtarum ſuarum citra Trenta, vel ejus locum tenenti infra Foreſta ſua de Walron.

Juſtic. ad Aſſias Cuſtod. pacis a vic.

ff. Juſtic. ſuis ad aſſias in com. *W.* ac cuſtod. pacis in eodem com. necnon vic. ejuſdem com. & eorum cuilibet.

Juſtic. ad aſſias, & Juſtic. ad Gaol delib.

ff. Juſtic. ſuis ad aſſias in com. S. & Juſtic. noſtris ad Gaol noſtra Caſtri noſtri de *L.* delib. aſſign.

Cuſtod. pacis infra libertatem.

ff. Cuſtod. pacis Thome Archiep. Eborum infra libertatem ſuum Rippon.

Cuſtod.

Custod. bre.

ſſ. Dil. & fideli noſtro *T. L. A.* Cuſtod. Brevium noſtrorum de com. Banco.

Custod. Gaol.

ſſ. Cuſtod. Gaol. caſtri ſui Eborum, aut ejus deputat. & eorum utrique, ſalutem.

Majori London, ac Juſtic. ad Newgate, & vic.

ſſ. Dil. & fidelibus noſtris *A. B.* Majori civitat. London, ſociis ſuis Juſtic. noſtris ad Gaolam noſtram de Newgate de Priſonar. in eadem exiſten. delib. aſſig. ac vic. ejuſdem civitat. & eorum cuilibet, ſalutem.

Eſcaetori & Vic.

ſſ. Eſcaetor noſtri ac vic. ejuſdem com. necnon omnibus ballivis ſingulis que miniſtris com. predicti, tam infra libertatem quam extram, & eorum cuilibet, ſalutem.

Majori Alderis vic. London, ac deputat. Alderorum & Conſtabulorum, &c.

ſſ. Majori Alderis & vic. London, ac omnibus & ſingulis deputat. Aldermanorum, Conſtabularum & aliis miniſtris noſtris infra libertate civitatis London, & eorum cuilibet, ſalutem.

Locum tenent. com. & Capitaneis.

ſſ. Deputat. locum tenentis com. noſtris Suff. ac omnibus & ſingulis Capitaneis in eodem com. Aſſign. & eorum cuilibet, ſalutem.

Omnibus Juſtic. majoribus, ballivis ac al. officiariis.

ſſ. Univerſis & ſingulis Iuſtic. majoribus, ballivis, vic. comitibus, Conſtabulariis, officiariis, miniſtris, & fidelibus, & quibuſcunque, tam infra libertatis quam extra, ad quos preſentes brevis pervenerunt, ſalutem.

Cuſtod. pacis, vic. & omnibus ſeneſcallis & al. in com. Lincol.

ſſ. Cuſtod. pacis ac Iuſtic. noſtris ad diverſas felonias, tranſgreſſiones, & alia maleſacta in com. noſtro Lincoln perpetrat. audiend. & terminand. aſſign. ac vic. Lin-

Lincoln. ac omnibus Seneſcallis & Secretaribus curiarum, & eorum cuilibet.

Epo Sarum.

Johanni eadem gra. Epo. Sarum, ſalutem.

Cuſtod. ſpecialis.

ſſ. F. *A.* Cuſtod. ſpiritualitatis Epatus Sarum, ſede Epali jam vacante, ſalutem.

Pleg. Juſtic. Ceſtr.

ſſ. Juſtic. ſuis Ceſtr. vel ejus locum tenenti, ſalutem.

Juſtic. ad Aſſias Regis.

ſſ. Dil. & fidelibus ſui *W. M.* militi & *T.* Juſtic. dom. *E.* nuper Regis Angl. quarti poſt conque. ad Aſſias in Son. capiend. aſſign. ſalutem.

Vic. Majoribus burgenſ. Sen. & aliis officiar.

ſſ. Vic. com. noſtri *B.* necnon omnibus majoribus, burgenſibus, ſeneſcallis, ballivis, ac omnibus aliis miniſtris, tam infra libertates quam extra, in com. B. & eorum cuilibet.

Cuſtod. pacis Juſtic ad Aſſias, & vic.

ſſ. Cuſtod. pacis ſue in com. Exon. ac Juſtic. ſub ad diverſas Felonias, tranſgreſſiones & al. maleſactam eodem com. audiend. & terminand. aſſign. ac Juſtic. ſuis ad Aſſias in com. predicto capiend. aſſign. necnon Juſtic. ſuis ad Goala Caſtri Exon. de priſonar. in eadem exiſten. deliberand. aſſign. ac vic. ejuſdem com. & eorum cuilibet.

Majori Admirallo Southamton.

ſſ. Majori ville ſue Southamton, ac *Admirallo* Caſtras maris eidem ville ab antiquo partim.

Aldermanno Warde & Collectoribus.

ſſ. Aldermanno Warde Turris London infra civitatem noſtram London, ac Collectoribus & Subcollectoribus xxxv nobis plegiis Regni noſtri Angl. conceſſ. in civitate prædict. & eorum cuilibet.

Juſtic. Foreſte citra Trentam.

ſſ. Chariſſimo conſanguineo ſuo *H.B.* comiti Eſſex

cuſtod,

Custod. bre.

ſſ. Dil. & fideli noſtro *T. L. A.* Cuſtod. Brevium noſtrorum de com. Banco.

Cuſtod. Gaol.

ſſ. Cuſtod. Gaol. caſtri ſui Eborum, aut ejus deputat. & eorum utrique, ſalutem.

Majori London, ac Juſtic. ad Newgate, & vic.

ſſ. Dil. & fidelibus noſtris *A. B.* Majori civitat. London, ſociis ſuis Juſtic. noſtris ad Gaolam noſtram de Newgate de Priſonar. in eadem exiſten. delib. aſſig. ac vic. ejuſdem civitat. & eorum cuilibet, ſalutem.

Eſcaetori & Vic.

ſſ. Eſcaetor noſtri ac vic. ejuſdem com. necnon omnibus ballivis ſingulis que miniſtris com. predicti, tam infra libertatem quam extram, & eorum cuililibet, ſalutem.

Majori Alderis vic. London, ac deputat. Alderorum & Conſtabulorum, &c.

ſſ. Majori Alderis & vic. London, ac omnibus & ſingulis deputat. Aldermanorum, Conſtabularum & aliis miniſtris noſtris infra libertate civitatis London, & eorum cuilibet, ſalutem.

Locum tenent. com. & Capitaneis.

ſſ. Deputat. locum tenentis com. noſtris Suff. ac omnibus & ſingulis Capitaneis in eodem com. Aſſign. & eorum cuilibet, ſalutem.

Omnibus Juſtic. majoribus, ballivis ac al. officiariis.

ſſ. Univerſis & ſingulis Iuſtic. majoribus, ballivis, vic. comitibus, Conſtabulariis, officiariis, miniſtris, & fidelibus, & quibuſcunque, tam infra libertatis quam extra, ad quos preſentes brevis pervenerunt, ſalutem.

Cuſtod. pacis, vic. & omnibus ſeneſcallis & al. in com. Lincol.

ſſ. Cuſtod. pacis ac Iuſtic. noſtris ad diverſas felonias, tranſgreſſiones, & alia maleſacta in com. noſtro Lincoln perpetrat. audiend. & terminand. aſſign. ac vic. Lin-

Lincoln. ac omnibus Seneſcallis & Secretaribus curiarum, & eorum cuilibet.

Epo Sarum.

Johanni eadem gra. Epo. Sarum, ſalutem.

Cuſtod. ſpecialis.

ſſ. F. A. Cuſtod. ſpiritualitatis Epatus Sarum, ſede Epali jam vacante, ſalutem.

Pleg. Juſtic. Ceſtr.

ſſ. Juſtic. ſuis Ceſtr. vel ejus locum tenenti, ſalutem.

Juſtic. ad Aſſias Regis.

ſſ. Dil. & fidelibus ſui *W. M.* militi & *T.* Juſtic. dom. *E.* nuper Regis Angl. quarti poſt conque. ad Aſſias in Son. capiend. aſſign. ſalutem.

Vic. Majoribus burgenſ. Sen. & aliis officiar.

ſſ. Vic. com. noſtri *B.* necnon omnibus majoribus, burgenſibus, ſeneſcallis, ballivis, ac omnibus aliis miniſtris, tam infra libertates quam extra, in com. B. & eorum cuilibet.

Cuſtod. pacis Juſtic ad Aſſias, & vic.

ſſ. Cuſtod. pacis ſue in com. Exon. ac Juſtic. ſub ad diverſas Felonias, tranſgreſſiones & al. maleſactam eodem com. audiend. & terminand. aſſign. ac Juſtic. ſuis ad Aſſias in com. predicto capiend. aſſign. necnon Juſtic. ſuis ad Goala Caſtri Exon. de priſonar. in eadem exiſten. deliberand. aſſign. ac vic. ejuſdem com. & eorum cuilibet.

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Juſtic. Foreſte citra Trentam.

ſſ. Charitſimo conſanguineo ſuo *H.B.* comiti Eſſex

cuſtod,

Custod. Foreste nostro citra Trentam, vel ejus locum tenenti in Foresta nostra de Windsor.

Aliter.

ſſ. Charissimo consanguineo suo *H. B.* comiti Essex Justic. Itinerant omnium Forrestarum, Parcorum, Chasearum & Warrenarum nostrorum citra Trentam, vel ejus locum tenenti in Foresta nostra de Windsor.

Recordator. & parochianis.

ſſ. Recordatori & parochianis Ecclesie Sancti Andree Holborne in Suburbiis London.

Custod. pacis & ur.

ſſ. Custod. pacis sue in com. Som. ac vic. ejusdem com. & eorum cuilibet

Thesaur. & Bar. Scac.

ſſ. Thesaurio & Baronibus suis Scaccario.

Prolocutori Parliamenti & unius Bar. Scac.

ſſ. Dil. & fidelibus suis Hennagio Finch, militi serviens. ad legem, Prolocutori Parliamenti nostri, & Recordatori London; Thome Trevor militi unius Baronum de Scaccario nostro; & Johanni Hobart milit. & Baronetto, Executoribus Testi Henrici Hobart Militis & Baronett. nuper capitalis Justic. de Banco, salutem.

Justic. magn. Sessione Wallia.

ſſ. Justic. nostris magna Sessionis nostre in com. Brecei.

Titles of Religious Houses and Colledges.

Eaton.

ſſ. PRepositus Collegii Regalis beate Marie de Eaton in com. Buck. Windsor, & idem Col regin.

Exon.

ſſ. Decanis & capitul. Ecclesiæ Cathedralis beati Petri Exon.

Emanuel Cantabr.

ſſ. Magr. Socii & Scholar. Collegii Emanuelis infra Univer-

Univerſitat. Cantabr.

Corpus Chriſti in Oxon.

ſſ. Prefec. & Scholar. Collegii Corpus Chriſti infra Univerſitatem Oxon. in com. Oxon.

Magdalen Oxon.

ſſ. Preſident. collegii ſanctæ Mariæ Magdalen in Univerſitate Oxon. & Scholar. ejuſdem collegii.

St. Johns Jeruſalem.

ſſ. Quidem *W.W.* Miles nuper Prior ſancti Johannis Jeruſalem in Anglia, & ejuſdem nuper Hoſpitalis conf. nuper fuerunt ſeiſit.

Baliol Oxon.

ſſ. Magiſtro & Scholar. collegii de Baliol. in Univerſitate Oxon.

Heref.

ſſ. Decanus & capitul. Eccleſia Cathedralis Heref.

All-ſouls Oxon.

ſſ. Gardianus Socii collegii Animarum omnium fidelium & defunctorum de Univerſitate Oxon.

Wigorum.

ſſ. Decanus & capitulum Eccleſiæ Cathedralis Chriſti & beate Marie Virginis Wigorum.

Chriſtum Exon.

ſſ. Decanus & capitulum Eccleſie Cathedralis Chriſti in Exon. Et fundatione Regis Henr. octavi.

Windſor.

ſſ. Decanus libere —— Capelle Regie ſancti Georgii infra Caſtrum ſui de Windſor, & Canonici ejuſdem Capelle.

Chriſti Colledge.

ſſ. Magiſtro ſive cuſtod. Collegii Corporis Chriſti & beate Marie Virginis, vulgariter nuncupat. Bennett. Colledge in Univerſitate Cantabr. ac Socii & Scho'ar. ejuſdem Collegii. Hill. 10 Car. primi 1616.

Communities, Societies, and Brotherhoods of Cities and Burroughs.

Gardiani London.

ff. MAgistro Gardiani assistan. & communitat. Gardinarum civitatis London.

Sarum.

ff. Majori communitas civitatis Sarum.

Grocer. London.

ff. Ad respondend. custod. & commun. magistro Grocer. civitat. London. Mich. 43 Car. Rot. 440.

Major & communitas London.

ff. Ad respondend. majori & communitati ac civibus civitat. London. M. 3 Car. Rot. 1331.

Parishes and Wards in London.

Cheapside.

ff. IN parochia beatæ Marie de Arcubus in warda de Cheape.

Lumbardstreet.

ff. In parochia omnium sanctorum in Lumbardstreet in warda de Bishopsgate.

Sepulchres.

ff. In parochia sancti Sepulchri in warda de Farringdon extra.

Dunstans West.

ff. In parochia sancti Dunstani in occiden. in warda de Farringdon extra.

Woodstreet.

ff. In parochia sancti Michaelis in Woodstreet in warda de Cripplegate.

St. Martins.

ff. In parochia sancti Martini in warda de Farringdon extra.

Fan-

Fanchurch-ſtreet.

ſſ. In parochia ſancti Dionyſii in *Fanchurch ſtreet* in warda de Langborne.

Queenhithe.

ſſ. In parochia ſancti Michaelis apud Queenhithe in warda de Queenhithe London.

St. Olaves.

ſſ. In parochia ſancti Nicholai Olavi in warda de Queenhithe.

St. Faith.

ſſ. In parochia ſancti Fides in warda de Farringdon infra.

Little St. Bartholomewes prope le Regal Excambium.

Apud le Northgate Regalis Excambii, in parochia ſancti Barthol. parvi prope Regale Excambium in warda de Broadſtreet. Hill. 20 Car. primi, Rot. 383.

St. Laurence old Jury.

ſſ. Inquiſitio capt. Guild-hall civitatis London, ſituat. & exiſtent. in parochia ſancti Laurencii in veteri Juro, in warda de Cheape London.

St. Pauls.

ſſ. Apud Eccleſiam Cathedralem Divi Pauli London in warda de Farringdon infra.

St. Magnes.

ſſ. In parochia ſancti Magnetis in warda de Bridgeward London. Paſch. 3 Car. Rott. 1205.

St. Anne.

Deviſum ſancti Anne in warda de Farringdon infra.

Cities and Towns which have Sheriffs.

The City of	Briſtol.	two.
	Coventry.	two.
	Cantuar.	one.
	Ebor.	two.
	Exon.	two.
	Gloc.	two.
	Lichfield.	one.
	Lincoln.	two.
	London.	two.
	Norwic.	two.
	Wigorn.	one.
The Town of	Kingſt. ſuper Hull.	one.
	Southampton.	one.
	Nottingham.	two.
	Poole.	one.
	Nov. caſt. ſup. Tinam.	one.

SECT. IX.

Of ſuing an Attorney or priviledged Perſon.

AN Attorney or other Clerk or Officer, cannot be arreſted as a common perſon, either upon a *Capias*, or any other common proceſs; nor cannot be ſued in any other court; but is priviledged from arreſts. But when a common perſon would ſue an attorney or priviledged perſon, the courſe is to file a Bill againſt him, which muſt be ingroſſed in parchment, and a Declaration drawn, and the copy thereof the defendant muſt take, and ſet his hand to the bill for his appearance. And if he refuſeth to take a copy and ſet his hand to the bill, the plaintiffs attorney may call him in court, and give him a rule to appear; and if he appear not, enter a forejudger againſt him with the Clerk of the VVarrants; and being forejudged the court, he loſeth the benefit of his priviledge, and may be arreſted as a common perſon. But the bill and declaration muſt be tendred unto him in the Term-time; for he may refuſe it after the Term, and then you cannot forejudge him.

After the defendant hath appeared and accepted the declaration, the attorney for the plaintiff is to file the bill the ſame Term at the *Cuſtos brevium*; and if the plaintiff require anſwer, the attorney is to plead forthwith. For attornies are to anſwer *de die in diem*, becauſe they are intended to be always in court: and if he pleads not, the plaintiffs attorney may enter up judgement againſt him, and take out execution againſt him, by which he cannot be defended from any priviledge.

Nevertheleſs an attorney or other priviledged perſon may be ſued to the *Outlawry*, without any mention in the Writ that he is an attorney: and if he appear not by *Superſedeas* to the Exigent, he may be Outlawed, and is lyable to a *Capias utlagat.* And if he do appear, the plaintiff declares againſt him as a common perſon, without any mention that he is an attorney.

But if an attorney arreſt a common perſon, his uſual proceeding is by an attachment of priviledge, and not by *Capias*; and in all caſes he may ſtand upon ſpecial bail: which attachment of priviledge he is to enter in the remembrance in the office where he enters, and to mark upon the remembrance, *quer pet. bonos manucapt.* if he intend to have ſpecial bail; and he ought alſo to mark his Writ thus: *Quer. pet. bonos manucapt.* that the Sheriff may take notice he requires good bail.

An attorny may refuſe to ſerve in any Pariſh-office, as Conſtable, Churchwarden, Collector, Scavenger, *&c.* And if the Pariſh where he lives do chuſe him, he may ſue out his Writ of priviledge, which ſhall diſcharge him.

The form of which Writ of priviledge runs in this manner:

Carolus *Dei gratia* Angliæ, Scotiæ, Franciæ, *&* Hiberniæ, *Rex fidei defenſor.* &c. (Here be ſure make the direction right) *ſalutem. Cum ex Regali decencia noſtra, & conſuetud. in cur. noſtra. & progenitorum noſtror. de banco, à tempore quo non extat. memoria, uſitat. omnes & ſinguli Juſtic. noſtri eodem Banco, necnon omnes & ſinguli Officiarii, Clerici, Attorn. & miniſtri ejuſdem Banci, qui nobis & populo noſtro miniſteria ſua vinculo Juramenti impendere ſunt diſtrict. ad aliqualia Officia alibi quam in Banco predict. exercend. per quæ à cur. noſtra prædict. retrahi poſſint, juxta cur. præd. libertat. &*

privileg.

privileg. à toto tempore, prad uſitat. & approbat. in noſtre dignitatis honorem, trahi, elegi, ſeu compelli non debeant; vos tamen, vel aliquis veſtrum, ad dignitatem, honorem & privileg. prad. conſiderationem non habentes, R T. Gen. unum Attorn. cur. noſtræ de Banco prad. in Officium un. Scaveng. Anglicè Scavengers *Libertat. S. M. le Grand eligere importune intend. ut informamus. Quod ſi permitteretur in noſtro & ligeor. noſtror. & in cur. noſtra prad. proſequend. & defendend. & ipſius R. perditum caderet manifeſte, prout idem R. ſupplicavit d. premiſſa nobis intelligi dedit. Ac nos ſupplicationi ipſius R. annuentes, ac cur. noſtræ prad. ſtatum, libertat. & privileg. inviolabile obſervari volentes, precipimus vobis & veſtrum cuilibet, quod preſat. R. in Officium prad. elegi ſeu conſtitui minime faciatis. Etſi ante advent. iſtius Brevis idem R. in Officium prad. elect. fuit, tunc ipſum R. ab Officio illo exoneretis, & penitus exonerari facietis, periculo incumbente. Teſte, &c.*

Likewiſe if an Attorney be impleaded in any other Court but where he is an Attorney, he may bring his Writ of priviledge, and it will diſcharge him.

The form whereof follows:

Rex Majori & Ballivis Civitat. ſuæ Winton in com. Southt. et eorum cuilibet, ſalutem. Oſtenſ. eſt nobis ex parte R. T. unius Attorn. de com. banco, quod cum ipſe com. Banco prad. exiſtat, & diverſa negotia plurimorum ligeorum noſtrorum in eodem Banco proſequend. & defend. ut eorum Attorn. proſequend. & defend idemq; R. & omnes alii Attorn. in Banco prad. pro magiſtris & Clientibus ſuis proſequend. vel defend. ad reſpondend. coram aliquibus Judicibus ſecularib. de aliquibus Placitis præterq; coram Juſtic. noſtris de Banco prad. (Felon. & Appellis, & Placite de liber. tenemento duntaxat exceptis) trahi et compelli non debeant, nec à tempore quo non extat memoria conſueverunt: quidam tamen malevoli, privilegia

cur.noſtr.prad. neſcient. apud R. coram vobis trahere in placitum proponunt ut accepimus, & per miniſtros veſtros ſum.attach. & diſtringere intend. in ipſius R.grave dampnum,& plurimor.ligeor.noſtror.in cur. noſtræ prad. proſequent.et defendent.quor.Attorn.idemR.exiſtit periculum manifeſtum Unde nobis ſupplicaverit ſibi de remedio congruo in hac parte provideri. Ac nos volentes idem R.fieri quod eſt juſtum,et conſonans rationi,ac libertates et privilegia cur.noſtræ prad.inviolab obſervari,vobis et cuilibet veſtrum precipimus, quod de omnimodis placitis et quærelis verſus ipſum R.per quoſcunq;coram vobis ſeu aliquo veſtrum mot. ſeu movendis quibuſcunq; nominibus parte cenſeant.in eiſdem (excepti.præexcepti) ſuperſed. omnino quærentib.in quærel.illis dicent quod quærel. ſuas pred.in cur. noſtra de Banco prad. Juſtic.ibid. proſecui. verſus R.proſequant.ſi ſibi viderint expedir. T.&c.

Otherwiſe to diſcharge an Attorney and his bail.

Quidem tamen malevoli privilegii curiæ noſtræ pred. neſcientes, ipſium R coram vobis traheri in placitum, ut accepimus,et per miniſtros veſtros attachiari fecerunt, in ipſius R.dampnum,&c.ut ſuperſed.omnino,&c. ac ipſum R.una cum pleg. & manucapt. ſuis à curia noſtra prad ſine dilatione libere abire permittatis, quærentis in quærelis illis ex parte dicentes quod quærelas ſuas prad.in cur.noſtra coram Juſtic. noſtris de Banco prad. proſequant.verſus prad. R ſecund. debit. Legis form ſi ſibi viderit.expedir. T. &c.

SECT. X.

The manner of ſuing forth a Fine.

FIrſt draw your *Precipe* in paper,then ingroſs it fairly in parchment with the Concord; and with the Conizor go to my Lord chief Juſtice, and there get it acknowledged.

The

The form of a *Precipe* in a Fine is thus:

3. ſſ. *Precipe A.B. de L. Ar. & A. uxori ejus, quod juſte, &c. teneant. R.T. Gen. con. &c. de manerio de T. cum pertinentiis, Ac de quinque Acris terre, quinque acr. prati, quadraginta ſolid. reddit. et com. paſtur. et pro omnimod. Animalib. cum pertinen. in W. et niſi,* &c.

Be careful to obſerve the form and order of placing the particulars in a Writ of covenant; and with the *Precipe* in paper go to the *curſitor* of the County where the land lieth, and there get your Writ of covenant made; which carry before it be ſealed to the alienation-office in the Temple, and there compound it; & get it entred and indorſed: which being done, carry it back to the curſitor, who will get it ſealed; and that being done, put in your warrant of attorny with the Clerk of the Warrants, who will ſign your VVrit of covenant with a ſtamp for that purpoſe.

The form of the VVarrant of *A*ttorny is thus:

S.ſſ. *A. B. po. lo. ſuo R. T. ad proſequend. bre. de converſus T. R. de Terris & Tenementis in H. M. et T.* &c.

Then file your Writ and the *Precipe* and concord together, and carry them to Mr. *Jones* his office in the middle-Temple, who returns the writ of covenant, & ſigns the ſame with his Stamp; from thence remove it to the *Cuſtos brevium*, who will do what belongs unto him therein, and indorſe upon the writ when the Proclamations ſhall be made; & from thence to the Kings Silver-Office, who will perform what belongs unto

it

it there. (And being once dispatched that office, is then a Fine in the force of Law.) *Afterwards* carry it to the Chirographer, and there the Clerk who belongs to the county where the lands do lie, will make your Indentures of the Fine, and then it is finished.

If you would acknowledge a fine at the Bar, then carry the Writ of Covenant sealed, and deliver it with the *Precipe* and Concord to one of the Sergeants at the Bar, (the Conizors being present.) And if any of them be a *feme Covert*, she must go from the Bar to the *Puisne* Judge, to be examined at the side of the Court: then take the *Precipe* and concord together, when the Court hath recorded it, paying the Fees of the Court.

Any Judge of the Common Pleas, Kings Bench, or Baron of the Chequer, may take the caption of a Fine, before the *Ded. potestatem* is sued forth; which you may sue forth afterwards, and carry it under seal to him that took the cognizance of the fine, who will return the same.

A fine may also be taken by special commission in the Country; which to do, you must deliver to the cursitor the commissioners names, one whereof must be a Knight; and the cursitor will make up the *Ded. potestatem* by the concord, and get it sealed for you.

Deliver the *Ded. potestatem* to the commissioners with the *Precipe* and concord ingrossed in paper, with wax and seals unto it; and when the cognizance is taken, they return it thus:

Executio istius commissionis patet in quadam Schedula huic brevi annex.

And file the concord to the back of the *Ded. potestatem*, and the commissioners set their seals to the concord, and their hands to the *Dedimus*; and the concord they do subscribe thus: *Capt.*

Capt. & cognit. apud H. *in com.* S. *decimo ſexto die Martii, An. Regni Car. ſecundi Regis ſeptimo decimo, coram*

Then when you have returned up your *Ded. poteſtat.* carry it to the Curſitor, who will make you the Writ of Covenant. And then paſs the Fine as before is directed; only in this caſe you muſt carry it to a Judge of the Common Pleas for his *Allocat.*

Divers and various are the natures and forms of Fines, *Precipes* and Concords; I have therefore here furniſhed you with variety of Examples

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SECT. XI.

Forms of Writs of Covenant.

Writs of Covenant of Common.

PRecipe, *&c.* de tribus meſ. *&c.* cum pertin. in D. & T. & de communia paſtur' pro omnibus & omnimodis averiis, ac de paſtura pro 400 ovibus cum pertin. in D. in parochia de C. Et niſi, *&c.*

Of Land and Sheepwalk.

Prec. *&c.* de uno meſuag. uno curtilagio, uno gardino, *&c.* ac v. li. reddit. cum pertin. in F. Necnon de libert. unius faldagii & curſu ovium cum pertin. in F. Et niſi, *&c.*

Of Wood and foldage.

Prec. *&c.* de centum acr. boſci cum pertin. in N. ac de libertate faldagii pro xl. ovibus cum pertin. in S. niſi, *&c.*

Of

Of Wood.

PRec. &c. de, &c. & quatuor virgat. boſci, &c. in parochiis de B. & L. &c.

Prec. &c. de duab. partibus in tres partes dividend. viii. acr. terre, lx. acr. paſtur', lx. arundinarum, x. acr. mariſci friſci, & mariſ. falſi, cum pertinent. in D. &c. Et niſi, &c.

Prec. &c. de Rector. impropriat. de H. cum pertinent. ac de mediet. omnium decimar. granor. bladorum, garbar. & fœni, de terris vocat. le *B. lanus* cum pertinent. in H. pred &c. Et niſi, &c.

Prec. &c. de maner. de, &c. & x.s. redd' ac de libero ſaldagio ovium cum pertinent. in R. & de Hundred de L. Et niſi, &c.

Prec. W. S. Militi domino M. quod ten. W.C. Milit' principal. Secretar. dom. Reg. convenc. &c. de tertia parte 4 meſ. 4 cotag. unius molend. x gardin. x pomar. 200 acr. terr. 200 acr. prati, 200 acr. paſture, 30 acr. mare, 30 acr. turbar. & v. s. redd. cum pertinentiis in A B. C. & D. ac de tertia parte Viſ. franci pleg. honor. & catall. waviat. felon. fugitivorum, utlagar. in exigen. poſitorum, fel. de ſe, deodand. theſaur. invent. ac extrahur. cum pertinent. in M. &c. Necnon de 3. parte Rect. Eccleſ. de K. cum pertin. Et niſi, &c.

A Writ of Covenant and Tythes.

Tythes. PRec. T. M. Milit. quod ten. T. P. com. venc &c. de proficuis granorum, fœni, lanæ & agnor. ac de omnimod. aliis decim. pertinentiis in M. Et niſi, &c.

A

A Writ of Covenant of divers things.

Linc. ff. PRec. F. M. arm. & T. M. filio & heredi apparent. ejuſdem F. quod ten. F. F. & N. R. gent. convenc. *&c.* de maner. de T. S. & H. juxta M. ſuper Trent. ac de xl meſ. xx cotag. xl toſt. xxx horreis, 2 molend. aquatic. uno molend. ventirico, 3 columbar. xl gardin. xl pom. mille acr. terr. mille acris prati, mille acr. paſt. 500 acr. boſci, C. mariſ. C. jampn. & bruer. C. acr. mariſ. C. acr. alneti, C acr. juncar. 500 acr. more, 4 li. redd. & redd. dimid. unius libre piperis cum pertin. in T. *&c.* ac etiam de minora carbon. cum pertin. in T. & S. Necnon de advoc. Eccleſ. de T. & H. Et niſi, *&c.*

A Writ of Covenant of Diſmes and Tythes.

Nott. ff. PRec. D. E. quod, *&c.* teneat R. T. armig. non, *&c.* de decimis grabarum, granorum & fœni cum pertinentiis in R. & W. ac de decima fœni in V. necnon de decimis lani, agnorum, oblationum, obvencionum, & emolumentorum, & de omnibus aliis decimis quibuſcunque, venien. creſcen. & renovan. in W. prædict'. Et niſi, *&c.*

Prec. T. B. & A. uxori ejus, quod ten. C. W. armig con. *&c.* de Rectoria de L. ac de advocatione Vicar. de L. ac de decem meſuag. x. cotag. x. horreis x gardin. *&c.* cum pertinent. in L. prædict. Et niſi, *&c.*

Prec. *&c.* quod juſte, *&c.* de x meſ. *&c.* in W. Necnon de Rector. Eccleſiæ de G. & de decim. granor. fœni, lini, agnor. & omnium aliar. decimar. quarumcunque in G. prædict. ac etiam de advocat. Vicar. Eccleſ. de G. prædict. cum pertinent. Et niſi, *&c.*

R.

Releaſe by Fine of one to two.

Surr.ſſ. PRec. W. W. quod juſte, *&c.* ten. I. L.& A. P. con.*&c.* de ſex meſuagiis,*&c.* cum pertinent. in C. W.& E. *&c.* Et niſi, *&c.*

Et eſt concord. talis,ſcz. quod predict. W. recogn. pred. tenement. cum pertinentiis eſſe jus ipſius I. ut ill' quæ iidem I. & A. habent de dono præd. W. & illa remiſer. & quiet. clam. de ſe & her. ſuis prædict. I & A. & hered.ſuis imperpetuum. Et preterea idem W. conceſſit pro ſe & hered.ſuis,quod ipſi warrant.præd. I. & A. & hered. ipſius I. L. pred. tenementa cum pertin. contra pred. W. & hered. ſuos imperpetuum. Et pro hac, *&c.*

Fine upon Cognizance de droit, *by the husband and wife to two.*

Surr.ſſ. PRec. I. T.& A. uxor. ejus, quod juſte, *&c.* ten. W.R.& R.D.con.*&c.* de quatuor meſ. quatuor toftis, 40 acr. ter. 20 acris prati, 120 acr. paſtur. & 5 ſolid. & 4 d. reddit. cum pertin. in S. Et niſi, *&c.*

Et eſt concord. talis, ſcilicet, quod predict. I & A. recogn. predictum tenementum cum pertinentiis eſſe jus ipſius W. ut illa que idem VV.& R. habent de bono predictorum I. & A. Et ill' remiſer.& quiet.clam. de ipſis I. & A. hæredibus ipſius I. prædict. VV. & R. & hæredibus ipſius W.imperpetuum. Et preterea iidem I. & A. conceſſerunt, pro ſe & hæredibus ipſius I. quod ipſi warrant.predictis W. & R. & hæredibus ipſius VV.predictum tenementum cum pertinent.contra predict. I. & A. & heredes ipſius I. inperpetuum. Et pro hac recogn. remiſſione, quiet. clam. warrant. fine & concord. iidem VV. & R. cederunt predictis I & A. ducentas & quadraginta libras ſterlingorum. A

A Fine by Baron and ſeme and another.

Lincoln. ff. pRec. R.B. gen. & T. R. & M. uxor ejus, quod ten. T.B. gent. convenc &c. de triginta acr. terr. duabus acr. prati, tribus acr. paſturæ, & ſex acris boſci cum pertinent. in C. & niſi, *&c.*

Et eſt concordia talis, ſcilicet, quod predicti R T. & M. recognoverunt tenementa predicta cum pertinent. eſſe jus ipſius T. B. ut illa quæ idem T. habet de dono prædict. R. T. & M. Et illa remiſerunt & quier. clam. de ipſis R. T. & M. & hered. ipſius R. Preſat. T. B. & hered. ſuis inperpetuum. Et preterea iidem R. T. & M. conceſſer. pro ſe & hered. ipſius R. quod ipſi warrant. tenementa predict. cum pertin. preſat. T. B. & heredibus ſuis contra predict. R. T. & M. & hered. ipſius R. imperpetuum. Et pro hac, *&c.*

A Fine of a Parcel in reverſion by a Coparcener.

Surr. ff. pRec. T. W. & K. uxor ejus, quod juſte, *&c.* teneat. G.S. convenc inter eos fact. de tertia parte viii. meſſuag. ſept. gardin lx. acr. terr. x. acr. prati, xx paſturæ, quinquaginț. acr. boſci, cum pertinentiis in A. B. C. & D.

Et eſt concordia talis, ſcilicet, quod prædictus T. & K. recogn. tertiam partem prædict. cum pertinen. eſſe jus prædict. G & conceſſ. quod eadem tertia pars cum pertinen. quam M.B. vid. tenet ad terminum vitæ ſuæ de hereditate ipſius K. die quo hæc concordia facta fuit, & quæ poſt mortem ejuſdem M. ad ipſos T. & K. reverti debuit, reman. preſat. G. & heredibus ſuis inperpetuum: Tenend. *&c.* præterea iidem T. & K. con. pro ſe & hered. ipſius K. quod ipſi warrant. preſat. G. & heredibus ſuis tertiam partem pred. cum pertin. ſicut predictum eſt, contra ſe & hered. ipſius K. inperpetuum. Et pro hac, *&c.*

A

A Fine levied by a Husband and Wife of a Manor, to an Archbishop, and one other.

Midd. ff. PRec. I. L. Militi, domino L. & I. uxor. ejus quod juste et sine dilatione teneant Reverend. in Christo patri. T. Y. permissione divina Archiepiscopo Ebor. Anglie primati, et G. L. convenc. inter eos fact. de maneriis de *R. K.* et *M.* cum pertin. ac de quinquagint. messuagiis, quingentis toftis, ducentis cotagiis, sex molendinas, quingentis horreis, quingentis gardin. quinque mille acr. terræ, mille acris prati, sex mille acr. pastur. mille acr. bosci, decem mille acr. jampnorum, & bruere, ac de quingent. libr. redd. cum pertin. in *R. C. A.* alias S. T. V. W. & E. ac de advocatione Ecclesie de F. prædict. ac de Vis. francipleg. de *R. C.* & *A.* prædict. Et nisi, *&c.*

Et est concordia talis, scilicet, quod prædictus I. L. miles, dominus L. & I. uxor. ejus, recogn. maneria tent. redditus, advocationem et vis. francipleg. predict. cum pertinen. esse jus ipsius T. Y. Archiepiscopi Eborum, ut ill' que idem T. Y. Archiepiscopus & G. L. habeant de dono predictorum I. L. & I. uxor. ejus. Et illa remiser. T. Y. Archiepiscopo G. L. & hered. ipsius T. Y. Archiepiscopi in perpetuum. Et ulterius iidem I. L. & I. uxor. ejus, concesser. pro se & hered. ipsius L. quod ipsi warrantizabant maneria tenement. reddit. advocat. & vis. francipleg. predict. cum pertinentiis predict. T. Y. Archiepiscopo Eborum G. L. & hered. ipsius T. Y. Archiepiscopi contra omnes homines imperpetuum. Et pro hac, *&c.*

A Concord from two to two, with special warranty.

ET eſt concord. talis, ſcilicet, quod prædict. A. & B. recogn. prædict. Maner. molendin. columbar. tenement. reddit. & communi'm paſtur. cum pertinentiis eſſe jus ipſius C. ut illa quæ iidem C. & D. habent de dono ipſorum A. & B. Et ill. remiſer. & quier. clam. de ſe & hæred. ipſius *A.* prædict. C. & D. & hæred. ipſius C. imperpetuum. Et præterea idem *A.* conceſſit pro ſe & hæredibus ſuis, quod ipſi warrant. prædict. C. & D. & hæred. ipſius C. prædict. maner. molendin. columbarium, tenent. reddit. & communiam paſtur. cum pertinen. contra ſe & hæred. ſuos imperpetuum. Et ulterius idem B. conceſſit pro ſe & hæredibus ſuis, *&c.* ut ſupra.

A Concord of a Manor with a free warren and free fiſhing by an Earl and his Wife.

ET eſt concordia talis, ſcilicet, quod prædicti comes & Fr. ux. ejus recogn. prædict. maner. tenement. & reddit. cum pertin. ac advocationem, libertatem, liberam warren. & liberam piſcar. præd. eſſe jus ipſius W. ut ill. que idem W. habet ex dono prædictorum comitis & Fr. uxor. ejus. Et ill. remiſerunt & quier. clamer. de ſe & hæredibus ſuis præfat. W. & hered. ſuis imperpetuum. Et preterea iidem comes & Fr. conceſſer. pro ſe & hered. ipſius comitis, quod ipſi warrant. manerium, tenementum, & reddit. predict. cum pertinentiis: Ac advocationem, libertatem, liberam warrenam, ac liberam piſcariam predict. præfat. W. & heredibus ſuis contra omnes homines in perpetuum: & pro hac, *&c.*

A fine upon Cognizance of right, as that which he hath of his gift, with releaſe and warranty by husband and wife to a third perſon.

PRecipe I. H. & V. uxori ejus, quod juſte, &c. ten. R. P. generoſ con. &c. de manerio de B. cum pertin. ac de viginti meſſuagils, duob. toſtis, ſex cotagiis, 4 horreis, uno molend. aquat. uno molendino ſullonico, uno molendino ventritico, uno columbario, viginti gardinis, decem pomariis, centum acris terræ, centum acris prati, mille acris paſtur. decem acris boſci, viginti acris ſaliceti, centum acris jampnorum & bruere, viginti acris moræ, viginti acris turbariæ, triginta acris moſſet. ſex acr. juncar. viginti acr. mariſci friſci, & viginti acr. mariſci ſalci, duobus acris alneti, decem marcis redd. cum pertin. in B. C. & D. Nec non de liberis piſcar. in aquis de O. C. & D. ac de ſeperali piſcar. in aqua de S. Nec non de advocationi Eccleſiæ de B. alternis vicibus cum acciderit. Et niſi, &c.

Et eſt concordia talis, ſcilicet, quod predicti I. & V. recogn. maneria, tenementa, reddit. & liber. piſcar. præd. cum pertinen. ac advocationem prædict. eſſe jus ipſius R. ut ill. quæ idem R. habuit de dono prædictorum I. & V. Et ill. remiſ. & quiet. clam. de ipſis I. & V. hered. ipſius I predicto R. & heredibus ſuis imperpetuum. Et preterea iidem I. & V concеſſerunt pro ſe & hered. ipſius I. quod ipſi warrant. predicto R. & heredibus & aſſignatis ſuis predict. maner. tenementa, reddit. & liber. piſcar. cum pertinen. ac advocat. prædict. contra omnes homines imperpetuum. Et pro hac recogn. remiſſione, quiet. clam. warrant. fine & concordia, idem R. dedit predictis I. & V. xl. li.

A

A Concord of many things together, ſur cognisence de droit come ceo, &c.

HÆc eſt finalis, *&c.* Anno regni, *&c.* Coram, *&c.* juſtic. & aliis domin' Reg. fidelibus tunc ibidem præſentibus inter I. A. quer & M. B. deforc. De honore D. Caſtro vicecomitat. de S. cum hundred. membris & pertin. ſuis, Inſula de D. Baronia de D. hundred. de D. Burgo de D. uno feod. militis in D. ſcit. Ambit. & præcinct. nuper monaſterii de D. manerio de D. cum pertinen. ſit. manerii de D. Grangia de D. Parco de D. Prebend. de D. uno capitali meſſ. 2 meſſ. 2 toftis, 2 cotagiis, 1 columbr. 1 molendino ſullonico, 1 molend. aquatico, 1 molend. ventritico, 1 molend. granatt. 1 molend. blader. 1 horreo, 1 gardin. 1 pomar. 10 acr. terr. 10 acr. prati. 20 acr. paſturæ, 4 acr. Boſci, 40 acr. jampnorum & bruere, 30 acr. moræ, 50 acr. mariſci ſalſi, 9 acr. mariſci friſci, 30 acr. turbar. 9 acr. juncar. 6 acr. alneti, 6 acr. moſſeti. 4 acr. ter. aqua cooperr. communia paſtur. pro omnib. vel omnimod. animalibus, vel pro C. ovibus x. equis, vaccis, porcis, ſpadonibus, *&c.* libera warrena, lib. piſcar. libertate faldagii, libera falda, Ciſio, ſalm. plumbar. buſlar. aque falſe, puteo, 20 libr. decem marcar. decem ſolidor. uno denario, uno obolo & quadrant. redd. ac reddit unius par. chirothecarum, unius par. calcarium deaurat. ſagitte barbate, unius par. calceorum, untus vomeris, 1 libre cere, 1 libre piperis, 1 libre cumini, 1 clavi gariophyli, 1 roſe rubæ, 1 Acus & fili, 1 quarterii frumenti, quarterii ordei, 2 braſei caponum, 40 gallorum, 20 gallinarum, 1000 ovorum, & aucarum, cum pertinentis in D.

Ac de communia paſturæ quam predict. M. B. habet & het. ſolebat pro omnimodis averiis ſuis in C. acris paſture ipſius I. A. in D.

Ac de omnibus vel omnimodis oblationibus, decimis granorum, garbarum, feni, lanæ, lini, canabis, porcellorum, aucarum, agnellorum, &c. & aliis emolumentis quibuscunq; spectan. pertinen. crescentibus sive existen. cum pertinentiis in D.

Ac de theolonio, stallagio, picagio, pontragio, infra burgum de D. quodam currodio unius panis, unius lagene cervicie pro omnibus hominibus in D.

Et de gurgite & cursu aque currentis a loco vocat. H. infra & per terr. vocat. K. ad molend. vocat. S.

VVera sive veda in D. Ac de vis. franc pleg. libertate & franchesiis in D. Necnon de custod sive officio custod. de B. custod. parci & foreste de D. ac de officio seneschalciæ de D. Balliva sive officio ballivat. de D.

Necnon de nundinis de D. singulis annis ad festa de N. M. ibidem tenend. mercat. de D. quiet. sive libero passagio ultra aquam de D. Rectoria de D. advocatione, presentatione, donation. libera disposition & jure patronat. Ecclesie de D. quadam porcione decimarum aut pentionum in D.

Necnon de medietate manerii de D. cum pertinen. & de tercia parte ten. de C. in tribus partibus divis. excepta & omnino reservat. patronagio una cum advocatione vicariæ Ecclesiæ de D. & capelle eid. rectorie annex. ac omnibus decimis granorum, vis. franc. pleg. ac omnibus quæ ad vis. franc. pleg. pertinent. ward. maritagiis, escaet. carrall. felonum, waviat. extrahur. felon. fugitivorum, utlagat. attinct. cum terr. & tenement. utlagat. & waviat. quibuscunque feriis, mercat. wrecc. maris, ac tot & tantis juribus, jurisdictionibus, privilegiis, franches. & libertat. tenement. predict. aut aliquod eorum concernen. & eid. M. B. & heredibus suis ut de manerio de D. spectan.

Unde placitum conventionis summoni, fuit inter eos in eadem Cur. scilicet, quod predict. M. recognovit predict. honorem, Castrum, viceco mitatum, Insulam,

lam, baroniam, hundredum, burgum, feod. milit. fir. manerium, parcum, prebend. tenement. reddit. communiam paſture, liberam warrenam, liberam piſcariam, libertatem ſalin. plumbarum, bullar. puteum, rector. decimas, oblationes, Theoloneum, ſtallagium, picagium, pontagium, corrod. gurgeum, viſ. franc. pleg. libertates franchef. cuſtod. officium ſeneſcal. ballivar. nundinas, mercatas, feriam, paſſagium, Wreccum maris, medietatem & tertias partes cum pertinentiis. *Ac* advocationes, preſentationes, liberam diſpoſitionem, jus patronat. porcionem & pentionem prædictas eſſe jus ipſius I. Ut illa quæ idem I. habet de dono predict. M. & ill. remiſ & quiet. clama. deſe & heredibus ſuis predict. I. & heredibus ſuis inperpetuum.

Et preterea idem M conceſſ. pro ſe & heredibus ſuis q'od ipſe warrant. prædict. I. & heredibus ſuis predict. honorem, caſtrum, vicecomitatum, inſulam, *&c.* (ut ſupra,) contra ſe & heredes ſuos imperpetuum. Et pro hac recognitione, fine, *&c.*

A Fine of a Rent.

Nottingh. ff PRec. I. comiti H. & domine E. uxori ejus comitiſſe H. quod juſte & ſine dilatione ten. VV. C. Convenc. *&c.* de quadraginta libr. annui reddit. exeuntis de maneriis de E. *&c.* Et niſi; *&c.*

Et eſt concordia talis, ſcilicet, quod prædictus comes & comitiſſ. recognoverunt redd. predict. cum pertin. eſſe jus ipſius *W.* ut illa quæ idem *W.* habet de dono predictorum comitis & comitiſſe. Et ill. remiſer. & quiet. clamaver. deſe & heredibus ſuis prefat. *W.* & heredibus ſuis imperpetuum. Et preterea idem comes & comitiſſa concedunt pro ſe & heredibus ipſius comitis, quod ipſi warrant. redd. predict. cum pertinen. præſ. *W.* & hered. ſuis contra omnes homines imperpetuum. Et hac, *&c.*

A Fine of part of a Rent by husband and wife.

Suffolke ss. PRec. R. & I. uxori ejus quod teneant H. C. convenc, &c. de tertia parte quinque libr. sex solid. & octo denar. reddit. cum pertin. exeun. de maneriis de K. Et nisi, &c.

Et est Concordia talis, scilicet, quod pred. R. & I. recognover. tertiam partem predictam cum pertin. esse jus ipsius H. ut illam quam idem H. habeat de dono predictor. R & I. Et illa remiser. & quiet. clamaver. de se & hered. ipsius I. prefato H. & hered. suis imperpetuum. Et preterea iidem R. & I. concesser., pro se & heredibus ipsius I. quod ipsi warrant. prefat. H. & hered. suis predictam tertiam partem cum pertinen. contra omnes homines imperpetuum. Et pro hac, &c.

A Precipe with an exception and saving of some parcels.

PRec. &c. Con. &c. de Rectoria de T. cum pertin. excepr. advocatione vicar. Ecclesie de T. Et nisi, &c.

Et est, &c. quod predict. A. recogn. Rectoriam predicta cum pertin. (excepr. præexcepr.) esse jus, &c. Et ill. remis. &c (excepr. præexcepr.) Et preterea idem &c. conc. pro se, &c. quod ipse warr. predict. &c. Rectoriam præd. cum pertin. (excepr. præexcepr.) &c.

Ebor. PRec. C. B. & F. uxori ejus quod ten. E. D. & R. con. &c. de manerio de S. cum pertin. ac de x. mess. viii. cotag. C. C. acr. terræ, C C. acr. prati, 160 acr. pasture, 300 acr. more & vi s. redd. cum pertin. in A. & B. & C. & nisi fecerint, &c.

A Concord with a render for life, the remainder to the 1,2,3, &c. *son of the Cognizor.*

Et est concordia talis, scilicet, quod predict. T. & F. recogn. maner. tenementa & redd. predict cum pertin. esse jus ipsius E. ut ill. quæ iidem E. & R. habent de dono predict. T. & F. Et illa remiser. & quiet. clam. de ipsius T. & F. & hered. ipsius F. præfat. E. & R. & hered. ipsius E. imperpetuum. Et preterea iidem T. & F. concesser. pro se & hered. ipsius F. quod ipsi warrant. manerium, tenementa & redd. cum pertin. præf. *E.* & R & hered. ipsius *E.* contra ipsos T. & F. & hered. ipsius F. imperpetuum. *Et* pro hac recogn. *&c.* iidem *E* & R. concesser. præfat. T. & F. maner. de S. predict. cum pertinentiis, ac 20 mess. 8 corag. 20 acr. terræ, 20 acr prati, 160 acr. pastur. 300 acr. more, vi s. redditus cum pertinent. in A. & F. predictis, parcellas maner. tenementorum & redd. predict. *Et* ill. eis reddidet. in eadem curia. Habendum & tenendum præfat. T. & F. pro termino vitæ ipsorum T. & F. & alterius eorum diutius vivent. absque impetitione alicujus vasti. *Et* quod post decessum predicti T. & F. & eorum alterius diutius vivent. predict. parcel. maner. tenementorum & redd predict. cum pertinentiis reman. primogenito filio de corporibus pred. T. & F. inter eos ligitime procreat. et hered. mascul. de corpore predict. primogenit. filii legitime procreat. Tenend. *&c.* *Et* si nullus heres de corpore ipsius primogeniti, filii fuer. legitime procreat. predict. parcel. maner. tenementorum et redd. predict. cum pertin. reman. secundo genito filio de corpore predict. T. et F. inter eos legitime procreat. et hered mascul. de corpore dicti secundi geniti filii legitime procreat. Tenend. *&c.* *Et* si nullus heres de corpore ipsius secundi geniti filii fuer. legitime procreat. tunc prædict.

parcell. maner. tenementorum & redd. predict. cum pertinen. reman. hered. de corporibus predict T. & F. inter eos legitime procreat. Tenend. &c. Et si nullus heres de corpor. ipsorum T. & F. inter eos fuer. legitime procreat. tunc predict. parcel. maner. tenementorum & redd. predict. cum pertinentiis reman. inde rectis hered. ipsorum T. & F. imperpetuum. Tenend. &c. Et ulterius iidem E. & R. concess. prefat. T. & F. x. mess. &c. cum pertinentiis in B. & C. predict. residuum predict. maner. tenementorum & redd. prædict. Et ill. eis. redd. in ead. Cur.

A Fine to a Corporation.

Oxon ff PRec. I. P. vid. & E. P. gen. quod juste, &c. ten. *W.* E. presidenti Collegii Sancti Johannis Bapt. in *Academia* Oxon. & Scholastic. ejusdem collegii con &c. de situ & precinctu domus Collegii vulgarit. nuncupat. *the white Fryars* in suburbiis civitat. Oxon cum pertinentiis, ac de vi. messuag. vi. gardin. vi. pomar. v. acr. terr. duobus acris prati, & sex acris pasture cum pertin in surburbiis civit. pred. Et nisi, &c.

Et est concordia talis, scilicet, quod predict. I. & E. recogn. tenementa predicta cum pertinentiis esse jus ipsorum presidentis & Scholasticorum, ut ill que iidem præsidens & Scholastici habent de dono prædictorum I. & E. Et ill. remiser. & quiet. clamaver. de se & heredibus ipsius E. prefatis president. & Scholastic. & successoribus suis imperpetuum. Et preterea iidem I. & E. concesser. pro se & hered. suis, quod ipsi warrant. præfat. Præsident. & Scholastic. & succesor. suis tenementa præd. cum pertin. contra præf. I. & E. & hered. ipsius E. imperpetuum. Et pro hac, &c.

A Fine for Homage, Rent and Services.

Salop. PRec. E.T. ar.quod ten. N.P.con. de una acr. terræ & quindecim ſolidis redd.cum pertin. in G. & F. Et niſi *&c.*

Et eſt concordia talis, ſcilicet, quod predict. E. T. recognov. predict.acr. terræ cum pertin.eſſe jus ipſius N. ut ill.quam idem N.habeat de dono pred.E et ill. remiſit & quiet. clamvit. de ſe hered. ſuis præf. N. heredibus ſuis imperpetuum. Et predict. E. conceſſit præfat. N. pred. reddit.ſimul cum homagio & toto ſervitio I. H. & heredum ſuorum de tot. tenementis quot de predict. E. prius tenuit in F.predict. Habend. percipiend, & gaudend. predict. reddit. ſimul cum homagio & toto ſervitio predict. N. et heredibus ſuis imperpetuum. Et pred. E. & hered. ſui warr pred. N. & hered. ſuis predict. acr.ter. & reddit. predict. cum pertinentiis, ſimul cum homagio & toto ſervitio præd. (ſic ut dictum eſt) contra omnes homines imperpetuum. Et pro hac *&c.*

A Fine of a Mannor and Knights fees and Services by the Husband and the Wife and others.

INter H VV & I. B. quer. & T.M. Militem & T. filium ejuſdem L. & E. uxorem ejuſdem T. filii & VV. M. deforc. de manerio de T. cum pertin. unde placitum conventionis ſumm.fuit inter eos in eadem curia, ſcilicet,quod predict. T. T. E. & VV. recogn predict. manerium cum pertin eſſe jus ipſius H. ut illud quod iidem H. & I. habeant de dono predict. T.T.E. & VV. una cum ſeptem ſeodis militum in eodem Manerio. Et conceſſer. predict. H & I. predict. manerium & ſeod. cum pertin. ſimul cum homagiis & omnibus ſervitiis M. VV. & I. N. & hered. ſuorum de tot tenementis

quot

quot de predict. T. T. E & W. prius tenuerunt in eodem Manerio. Et ill. eis reddider in eadem cur. Habend. & tenend. iisdem H. & I. & heredibus ipsius H. de capital. domin. feodi illius per servitia quoad pred. Manerium & feoda pertinent. imperpetuum. Et preterea iid. T. T. E. & W. concesser. pro se & hered. ipsius E. quod ipsi warr. pred. H. & I. & hered ipsius H. predict. maderium & feoda cum pertin. sicut pred. est contra omnes homines imperpetuum. Et pro hac recognitione, concessione, warrantia, fine & concordia iidem H. & I. dedet. predict. T. T. E. & W. 20 li. sterlingorum.

A Concord of Lands in the County palatine of Lancaster

Lancast ss. HÆc est finalis concord. fact. in Curio dominæ Reginæ apud L. die Lune in quinta septimana quadragesimæ anno Regni Eliz. dei gratia Angliæ, Franciæ, & Hiberniæ, Reginæ, fidei defensor. &c xxxii. coram I. Clench tertio Baron. Scaccar dominæ Reginæ, & F. R. uno servientium dominæ Reg. ad legem Justic. domin. Reg apud L. & aliis dict. dominæ Reg. fidelibus tunc ibi præsentibus, inter H. T. & R. H. quer. & W. C. gen. deforc. de uno mesuag. &c. cum pertinentiis in T. unde placit. conventionis summ. fuit inter eos in eadem curia, scilicet, quod predictus W. recognovit &c.

A Fine in the county Palatine of Chester.

Chester. ss. HÆc est finalis concordia fact. in Curia dominæ Reg. apud Chestr. die Lune septimo die Maii, anno Regni domine Reg. Eliz. xxxii. &c. inter H. S. & VV. S. & E. uxorem ejus deforc. de

de duobus meſſuagiis, duobis ſalinis vocat. *Wich-houſes*, aliter *Salt-houſes*, duobus ſhoppis, ii. cameris, uno ſtabulo, decem acr. terr. quatuor acr. prati, & 6 acr. paſture cum pertinentiis in H & S unde placitum conventionis ſumm fuit inter eos in eadem curia, ſcilicet, quod predict. VV. S. & E. uxor ejus recogn. tenementa predict. cum pertinen. eſſe jus pred. H. S. ut ill. que idem H. S. habet de dono predictorum VV. & E. Et ill. remiſer. & quiet. clam. de ſe & heredibus ejus præf. H. S. & heredibus ipſius H. S. imperpetuum. Et preterea prefat. VV & E. conceſſer. pro ſe & hered. ipſius VV. quod ipſi & hered. predict. VV. tenem. predict. cum pertinentiis præf. H. & hered. ejus warrant. contra omnes homines imperpetuum. Et pro hac recogn. remiſſ. quiet. clamac. fine & concordia præf. H. S. dedit præf. VV. & E. quadraginta libras ſterlingorum.

A Leaſe for years, reſerving a Rent by grant.

Ebor. ſſ PRec. F. T. & M. uxori ejus, quod juſte *&c.* ten. I. H. & K. uxori ejus convenc. *&c.*

Et eſt concordia, *&c.* ſcilicet, quod præd. F. & M. conceſ. predict. I. & K. tenement. predict. cum pertinen. Habend. & tenend. eidem I. & K. a feſto *&c.* quod erit in anno, *&c.* complend. ſi pred. M. tamdiu vixerit. Reddend. inde ad feſta *&c.* per equales portiones ſolvend. durante toto termino predicto *&c.* Et ſi contingat, *&c.* *Quere, Whether this be a good Leaſe at this day againſt Iſſue in Taile?*

A Leaſe for years rendring Rent with a render and a diſtreſs.

Ebor. ſſ. PRecipe T. P. armig. & VV. C. gent. quod juſte &c. ten I. VV. & E. M. convenc. &c. de uno meſuag. &c. cum pertinentiis in H. & B. ac de libera piſcaria in aqua de B. Et niſi &c.

Et eſt concordia talis, ſcilicet, quod predict. T. & VV. recogn. tenement. & liberam piſcariam predict. cum pertin. eſſe jus ipſius I. ut ill. que idem I. & E. habent de dono predict. T. et VV. Et ill. remiſ. & quiete clam. de ſe & hered. ſuis preſat. I. & E. hered. ipſius I. inperpetuum. Et preterea iidem T. et Ll. conceſſ pro ſe & hered. ipſius T. quod ipſi warrantt. enement. & libr. piſcariam pred. cum pertin. prefatis I. & E. & hered. ipſius I. contra omnes homines inperpetuum. Et pro hac recognic. remiſſione, quiet clam. warr. fine, & concordia, iidem I. & E. conceſſer. præf. V. V. tenement. & lib. piſcar pred. cum perſinen. Et ill. ei reddider in eadem cur. Habend. & tenend. tenementa et liberam piſcariam predict. cum pertinentiis præf. VV. et aſſignatis ſuis, à feſto Sancti Martini in hyeme ultimo preterito, uſque ad finem termini ſexaginta annorum extunc proxim. ſequen. et plenarie complend. Reddend. inde annuatim præfatis I. et E. & hered. ipſius I. quendam annual. reddit. iii li. vi s. viii d. legalis monetæ Angliæ, ad feſta S. Martini Epiſcopi in hyeme & P. per equales portiones, durant. termino predict ſolvend. Et ſi contingat pred. annual. redd. iii li. vi s. viii d. aretro fore in parte vel in toto poſt aliquod feſtum feſtorũ pred. quando ut prefertur ſolvi debeat non ſolut. per ſpacium viginti dier. quod tunc bene liceat & liceb t præf. I. & E. & hered. ipſius I. in tenem. præd. cum pertin. intrare & diſtringere, diſtri-

diſtrictioneſque ſic ibidem capt. et habitas licite aſportare, effugare, abducere, et penes ſe retinere, quouſque de pred. annual. reddit. iii li. vi s. viii d. una cũm arreragiis ejuſd. ſique fuerint ſibi plenarie fuerit ſatisfact. & perſolut. Conceſſer. eriam præd. I. & E. preſat. T. tam reverſionem tenem. & libere piſcarie predict. cum pertin. quam predict. redd. iii li. vi s. viii d. ſuperinde reſervat. Et ill. eis reddider in eadem cur. Habend. et tenend. tam reverſionem tenementorum & libr. piſcar. pred. cum pertinen. quam pred. redd. iii li. vi s. viii d. ſuperinde reſervat præf. T. & hered. ſuis inperpetuum. Tenend. *&c.* ut ſupra.

A Leaſe for years ſaving the Reverſion.

Ebor. ſſ. PRec. C. & A. uxori ejus, quod juſte *&c.* ten. VV. S. & I. uxori ejus convenc. *&c.* de *&c. expreſſing the Tenements, &c.*

Et eſt concordia talis, ſcilicet, quod pred. C. & A. recognover. tenem. predict. cum pertinentiis eſſe jus ipſius VV. ut illa que iidem VV. et I. habent de dono predict. C. et A. et ill. remiſer. et quiet. clam. de ſe et hered. ſuis præf. VV. & I. & hered. ipſius VV. imperpetuum. Et preterea *&c.* Et pro hac *&c.* pred. *W.* et *I.* conceſſ. tenementa predict. cum pertinentiis præf. C. et A. et ill. eis reddider. in eadem cur. Habend. et tenend. tenement. pred. cum pertin. præf. C. et A. et aſſign. ſuis à feſto S. Mich. archangeli ultim. preterito, uſque ad finem termini et pro termino xl. annorum tunc proxim. ſequen. et plenarie complend. Et preterea idem *W.* et I. et hered. ipſius *W.* warrant tenement. predict. cum pertin. prefato C. et A. et aſſignatis ſuis, durante termino predicto contra omnes homines. Et pro hac *&c.* ut ſupra.

A Leaſe by tenant for life for one and twenty years, if ſhe live ſo long.

Ebor ſſ. pRec. I. P. Gen. & E. uxori ejus, & R. L. Arm. quod ten. I. M. convenc. *&c.*

Et eſt concordia talis, ſcilicet, quod cum predict. I. P. & E. habent & tenent. ſibi pro termino vitæ ipſius E. predict. tenement. & piſcar. cum pertin. reverſione inde poſt deceſſum ipſis E. VV. T. & hered. ſuis ſpectant. iidem I. F. & E. & R. conceſſer. prefato I. M. predict. tenementa & piſcar. cum pertinentiis. Habend. & tenend. eidem I. & aſſignat. ſuis tota vita ipſius E. Et preterea predict. I. F. & E. & R. warrant. preſat. I. M. & aſſignar. ſuis tenementa & piſcar. pred. cum pertin. ſicut dictum eſt contra predict I. F. & E. tota vita ipſius E. Et pro hac conceſſ. warrant. fine & concordia, idem I. M. conceſſit. preſat. R. tenementa & piſcar. predict. cum pertin. et illa ei reddidit in eadem curia. Habend. & tenend. tenement. & piſcar. predict. cum pertin. eidem R. pro termino xxi. annorum proxim. ſequen. et plenarie complend. ſi eadem E. tamdiu vixerit. Reddend. inde annuatim preſato I. M. & aſſign. ſuis 14 li. ad feſta *&c.* per equales porciones annuatim ſolvend. tota vita ipſius E. Et ſi contingat *&c.* conceſſit etiam predictus I. M. preſatis I. F. & E. reverſionem tenementorum et piſcarie predict. cum pertinen. et redditum predict. ſuperind. reſervat. et ill. eis reddid. in eadem curia. Habend. et tenend. eiſdem I. F. et E. de capitalibus dominis feodi illius per ſervitia que ad predict. tenementa et piſcariam cum pertin. pertinent tota vita ipſius E. Et poſt terminum illum finitum, tenem. pred. cum pertin. integre remanebunt P. aſſig. ſuis pro termino xxi. annorum poſt feſtum Sancti Martini in hyeme prox. futur. immediat. ſequent et plenar. complend. Reddend. inde annua-

tim

tim prefatis P. & E. & hered. ipſius P. toto termino predict. unam Roſam rubeam ad feſtum S. Johannis Bapt. annuatim ſolvend. ſi petatur. Et poſt terminum illum finitum, tenementa predict. cum pertin. integre remanebunt prefat. E. & M. et hered. ipſius E. imperpetuum de capitalibus dominis feodi illius, per ſervitia que ad predict. tenementum pertinent imperpetuum.

A Leaſe to the wife for one & twenty years, to commence after her Husbands death; reſerving a Rent, the Cogniſees grant back the ſame Reverſion and Rent.

South. ff. PRec. C. C. armig. et D. uxori ejus, et R. B. generoſ. quod ten. H. M. et C. M. convenc. *&c.* de duobus meſſuagiis cum pertinen. in parva S. et niſi *&c.*

Et eſt concordia talis, ſcilicet, quod predict. C. et D. et R. recogn. tenement. predict. cum pertinen. eſſe jus ipſius H. ut ill. *&c.* Et ill. remiſer. *&c.* Et preterea *&c.* Et pro hac *&c.* predict. H. et C. conceſſ. prefat. R. tenement. predict. cum pertin. Et ill. ei redd. in eadem curia. Habend. et tenend. tenement. predict. cum pertin. præfat. R. tota vita ipſius R. et immediate poſt deceſſum ipſius R. tenement. predict. cum pertin. integre remanebunt M uxori ipſius R. execut. vel aſſign. ſuis, pro termin. 21 annor. extunc proxim. ſequen. & plenar. complend. Reddend. inde annuat. præf. H. & C. & hered. ipſius H. quandam annuitat. ſive annual. reddit. 5 li. leg. monetæ Ang. ad feſta S. Mar. Epiſcopi & Pent. per equales portiones annuatim durant. eodem termino ſolvend. prima ſolutione inde incipiend. ad prox. feſt. feſtor. predictor. poſt deceſſum pred. R. Et ſi contingat predict. annuit. ſive annual. redd.

5 li.

5 li. ar etro fore &c. Conceſſ. etiam predict. H. et C. præf. C.C. et D. tam reverſionem tenementorum cum pertin. quam pred. redd. 5. li. ſuperinde reſervat. Et ill. eis reddider. in eadem cur. Habend. tenend. et percipiend predict. reverſion. tenementorum predict. cum pertinen. et redditum predictum præf. C. C. et H. & heredibus ipſius D. inperpetuum.

A Fine of Remainder for years, reſerving Rent, and rendring the remainder to an Eſtranger.

Ebor. ſſ. pRec. &c. C. N. & T. T. quod ten. M B. & E. D. convenc. &c. de &c. Et niſi &c. Et eſt &c. quod cum I. R. habet & tenet. ſibi et hered. de corpor. ſuo legitime procreat. tenem. pred. cum pertinen. reman. inde poſt deceſſum ipſius I. ſi idem I. obierit ſine hered. de corpore ſuo legitime procreat. preſat. C. et hered. ſuis ſpectan. iidem C. et T. conceſſer. tenementa pred cum pertin. pred. M. et E. et hered. M. inperpetuum. Tenend. &c. & pred. C. & hered. ſui warrant. præſ. M et E. et hered. ipſius M. tenementa predict. cum pertin. ſicut predictum eſt, contra omnes homines inperpetuum. Et pro hac conceſſione, reddition. warrant. fine, et concord. iidem M. & E. conceſſer. pred. T. tenement pred. cum pertin. Et ill. ei redd. &c. Habend. &c. eid. T. et aſſign. ſuis à feſto S. Mart. in hyeme prox. poſt deceſſum pred. I. ſi idem I. obierit ſine herede de corpore ſuo legitim. procreat. uſque finem termini & pro termino mille et quingent. annorum extunc proxim. ſequen. et plenarie compl end. abſque impetitione alicujus vaſti. Reddend. inde annuatim pref M. & E. et hered. ipſius M. unam denar. ad feſtum &c. annuatim ſolvend. toto termino pred ſi petatur. Et poſt terminum finitum, pred. tenementa cum pertin integre reman. P. T. uni filiorum pred. T. et hered. ipſius P. inperpetuum &c. ut ſupra.

A

A Leaſe in Reverſion paying a Rent.

North. ſſ. PRec. A. B. & E. uxori ejus, quod ten. C. D. convenc. *&c.* de uno meſuag. *&c.*

Et eſt concordia talis, ſcilicet, quod predict. *A. B.* & *E.* conceſſ. tenement. predict. cum pertin. pref. C. D. & aſſignis ſuis. Et illa in eadem curia prefato C. D. reddider. Habend. & tenend. eidem C. D. a feſto Pentec. quod erit in anno dom. 1597. uſque finem termini viginti unius annorum extunc prox. ſequen. & plenar. complend. Reddend. inde annuatim pref. *A. B.* & *E.* hered. ipſius *E.* ſeptem libr. legalis monete *&c.* ad feſta S. Martini epiſcopi in hyeme N. A. P. equis porcionibus annuatim durante termino pred. ſolvend. Et pro hac, *&c.*

A Leaſe to divers for an hundred years, if the parties live ſo long, reſerving a Rent, and the beſt Beaſt after the death of every Tenant in name of an Heriot.

London. ſſ. PRec. I. R. arm. & M. uxori ejus, & T. B. quod ten. R. C. & U. C. convenc. de uno meſuagio, *&c.*

Et eſt concordia talis, ſcilicet, quod pred. I. M. & T. recogn. tenement. pred. cum pertinen. eſſe jus ipſius U. ut ill. *&c.* cum relaxatione & warrantia. Et pro hac *&c.* iidem R. & U. conceſſer. pref. I. B. pred. tenementa cum pertin. Et ill. ei reddid. in ead. cur. Habend. & tenend. eidem T. & aſſig. ſuis, a feſto Natalis domini prox. futur. uſq; ad finem termini nonaginta annorum tunc prox. ſeq. & plen. complend. ſi iidem T. & I. uxor ejus B. B. & T. B filii ipſius T. tamdiu vixerint, aut eorum aliquis tamdiu vixerit. Reddend. inde annuatim Pred. R. & U. hered. ipſius U. quatuor libr. legalis

monete Angl. ad Feſta Annunciationis beatæ Mariæ Virginis, Nativit. S. Jo. Bap. Sancti Mich. *Archangeli*, & Nativitatis Domini; per equales portiones annuatim ſolvend. toto termino predict. ac ſolvend. poſt deceſſum L. B. patris, & poſt deceſſum cujuſlibet inde tenentis ſuum, optimum animal nomine heriot. Et ſi contingat pred. redd. 4 li. aretro fore in parte vel in toto poſt aliq; feſtum feſtorum pred. quo ut prefertur ſolvi debeat non ſolut. aut ſi contingat pred. optimum animal nomine heriot, ut prefertur, ſolvend. poſt deceſſum cujuſlibet tenentium promiſſorum fore inſolut. aut ſubſtract. Quod tunc bene licebit pred. R. & V. & hered. ipſius R. in predict. tenementa cum pertinentiis intrare & diſtringere, diſtrictioneſque ſic ibidem capt. & habit. licite abducere, aſportare, & effugare, & penes ſe retinere, quouſque de predict. redd. 4 li. & aretra. ejuſdem, ſi quæ fuerint, una cum optimo animal. predict. quando contigerit plenarie fuerint ſatisfact. & perſolut. Conceſſer. etiam predict. R. & V. predict. I. & M reverſionem tenementorum predictorum cum pertinentiis, & predictum reddit 4 li. ac predict. reddit. optimi animalis nomine heriotti ſuper jus reſervat. Et ill. eis reddider. in eadem cur. Habend. & tenend. eiſdem I. & M. & hered. ipſius I. & M. & hered. ipſius I. de capit. dominis feod. ill. in perpetuum, *&c.*

A Leaſe reſerving Rent, with a Nomine pene *and a Diſtreſs.*

Middleſ pRecipe E. P. *Armig.* & M. uxori ejus, & R. B. quod teneant I. R. & T. S. con. de uno Meſſuag. *&c.*

Et eſt concordia talis, ſcilicet, quod predict. E. P. & M. & R. B. recogn. tenementa predicta cum pertin. eſſe jus ipſius I. ut ill. quæ idem I. & T. habent de dono

dono predictorum E. M. & R. (cum relax. & warr.) Et pro hac, &c. iidem I. & T. conceſſ. præſat. R. tenementa predict. cum pertinen. Et ill. ei reddid. in eadem cur. Habend. et tenend. eidem R. a feſto Sancti Mich. ultimo preterito pro termino triginț. et unius annorum extunc prox. ſequen. et plenar. complend. Reddend. inde annuatim predict. I. & T. et hered. ipſius I. xx li. legalis monete Angliæ ad duos anni terminos, videlicet, ad feſtum Annunciationis beatæ Mariæ Virginis, et Sancti Michaelis Archang. per equales portiones annuatim ſolvend. toto termino predicto. Et ſi contingat predict. reddit. xx li. aut aliquam inde parcellam arretro fore in parte vel in toto poſt aliquod feſtum feſtorum predictorum, quo ut prefertur ſolvi debeat non ſolut. per ſpac. quadraginta dierum, quod tunc forisfaciat predictus R. predictis I. & T & hered. ipſius I. v. li nomine pene, & quod tunc & toties bene licebit predict. I. et T. et hered. ipſius I. in predicta tenementa cum pertinentiis intrare et diſtringere, diſtrictioneſque ſic ibidem capt. et habit. licite abducere, aſportare, effugare, ac penes ſe retinere quouſque tam de predict. xx li. quam de predict. quinque libr. nomine pene, ut prefertur, forisfact. cum arreragiis earum (ſi que fuerint) plenar. fuer. ſatisfact. & perſolut. Conceſſer. etiam predict. I. & T. predictis E. & M. predict. tenementa cum pertinentiis ac predict. reddit. xx li. ſuperinde reſervat. ac predictam ſummam quinque librarum nomine pene. Et ill. eis reddider. in eadem cur. Habendum & tenendum eiſdem E. & M. & hered. de corpore ipſius E. legitime procreat. Tenend. &c. & pro defectu talis exit. remain. inde W. W. & heredibus ſuis in perpetuum. Tenend. &c.

A Fine upon Grant and Render, to one for term of life without impeachment of waſte, and for ſixteen years after his death; then the one moiety to one and his heirs, and the other to another.

Ebor. PRecipe E. A. vid. nuper uxori *W. A.* mil. defunct. quod ten. *T. F.* con. de medietate manerii de H *&c.*

Et eſt concordia talis, ſcilicet, quod cum *E. A.* recogn. *&c.* Et pro hac, *&c.* idem *T. F.* conceſſit præfat. *E A.* medietatem predictam cum pertinen. & ill. ei reddidit in eadem cur. Habend. & tenend. predict. medietatem manerii, *&c.* pred. *E. A.* pro termino vitæ ſuæ ipſius *E.* abſque impetitione alicujus vaſti, de capitalibus dominis feodi illius per ſervitia quæ ad predict. medietatem pertinent, tota vita ipſius *E.* & pro termino ſexdecim annorum extunc prox. ſequen. poſt mortem pred. *E.* Et poſt mortem predictæ *E.* & poſt pred. terminum ſexdecim annorum finitum & determinat. quod tunc una medietas predict. medietatis manerii pred. *&c.* cum pertinentiis reman. *B. G.* modo uxori *G.* ar. & hered. ipſius *B.* Tenend. de *&c.* Ac altera medietas pred medietatis manerii, *&c* pred. cum pertin. remanent. *E. G.* modo uxori *N. G.* & hered. ipſius *E.* Tenend. de capitalibus, *&c.*

A Render for life, the remainder to one and his heirs males, the remainder to another and his heirs.

Eſſex. PRecipe *N. A. W. A.* quod ten. *R. C.* & *T. C.* con. de 3 meſſ.

Et pro hac, *&c.* idem R. & R. conceſſer. præf. VV. tenementa predict. cum pertin. & ill. ei reddider. in cad. cur. Habend. & tenend. eidem VV. & aſſign. ſuis. Tenend. de capitalibus dominis feodi illius per ſervitia quæ

quæ ad predict. tenementa cum pertin. pertinent, tota vita ipsius VV. Et post decessum ipsius VV ea dem tenementa cum pertin. integre remanebunt I. C. & heredibus masculis de corpore ipsius I. legitime procreat Tenend. *&c.* Et si nullus heres sit de corpore ipsius I. legitime procreat. tunc eadem tenementa cum pertinent. integre reman. I. C. fratri predict. I. & heredibus suis in perpetuum. Tenend. *&c.*

A Lease for life, the remainder for life to the wife in Jointure, the remainder in tail.

ET est concordia talis, *&c.* Et post decessum ipsius I. pred. *&c.* cum pertin. integre remanebunt I. VV. filiæ I. VV. nominæ junctur æ, quam (deodant.) idem I. C. ducet in uxorem. Tenend. de capitalibus, *&c* tota vita ipsius I. & post decess. ipsius I. pred. *&c.* cum pertin. integr. remaneb. hered. masculis de corpore pred. I. C. legitime procreat. Tenend. de capitalibus dominis, *&c.*

A Fine where the husband buyeth lands, and granteth them again to the Conisors for his wives life.

Ebor. PRecipi T. C. ar. VV. R. ar. T. P. ar. & L. B. gen. quod, *&c.* ten. I. D. & E uxor ejus convenc. de maneriis de C. N. & B. cum pertin. ac de ducentis mess. *&c.* & de x li. redd. cum pertin. in C. N. & B. Et nisi, *&c.*

Et est concordia talis, scilicet, quod predicti T. C. VV. T. P. & L. recogn. maneria, tenementa & reddit. predict. cum pertin. esse jus ipsius I. & ill. remiser. quiet. clam. de se & heredibus suis pred. I. & E. & heredibus ipsius I. in perpetuum. Et pro hac, *&c.* iidem I. & E. concesser. predictis T. C. VV. T. P. & L. predicta maneria, tenementa & reddit. cum pertinentiis

& ill. eis reddid. in eadem curia. Habendum et tenendum eisdem. T. C. W. T. P. et L. tota vita ipsius E. et predict. I. et heredes sui warr. predictis T. C. W. T. P. et L. predicta maneria, tenementa et redd. cum pertin. sicut dictum est, contra omnes homines, duran. vita predict. E. *&c.*

A Concord of divers tenements, rents, a rectory and advowson, with the moiety of a mill.

HÆc est finalis concordia facta in curia dominæ Reginæ apud W. ta die P. in quindecim dies, Anno regni Elizab. Dei gratia Angl. Fr. & Hib. Reg. fidei defensoris, *&c.* a conquestu vicesimo quarto, coram E. A. T. M. F. VV. W. P. Justic. & aliis dominæ Reg. fidelibus tunc ibi præsentibus, inter I. B. gen. & R. C. generos. querent. & R. C. seniorem armiger. & R. C. de *Grays-Inne* in comitatu Midd. gener. deforc. de centum messuagiis, centum cotagiis, duobus millibus acr. terræ, mille acris prati, duobus millibus acr. pasturæ, centum acris bosci, mille acris jampnorum & bruer. & centum solidis reddit. cum pertin. in *&c.* Necnon de rectoria de K. cum pertinentiis, ac de advocatione Ecclesiæ de K. unde placitum convenc. fum. fuit inter eos in eadem curia, scilicet, quod predict. R. & R. recognoverunt predicta tenementa, reditus, & rectoriam cum pertinentiis, ac advocationem predictam esse jus ipsius I. ut illa. quæ iidem I. & R. habent de dono predictorum R. & R. & illa remiserunt & quiet. clam. de ipsis R. & heredibus suis predict. I. & R. & hered. ipsius I. in perpetuum. Et preterea iidem R. & R. concesserunt pro se & heredibus ipsius R. C. senioris, quod ipsi warr. predictis I. & R. & heredibus ipsius I. predict. tenementa, reddit. & rectoriam cum pertinentiis, ac advocationem predict. contra predict. R. & R. & hered. ipsius R. C. senioris

in

in perpetuum. Et pro hac recogn. remiſſione, quiet. clam. warrant fine & concordia, iidem *I.* & R. dederunt predictis *R.* & *R.* duo mille li. ſterlingorum.

A Fine of a fourth part to two.

HÆc eſt finalis corcordia facta in cur. dominæ Reg. apud Weſtm. in Octab. Sancti Mich. Anno regni Eliz. Dei gratia Angl. Franc. & Hibern. Reg. fidei defenſ. *&c.* à conqueſtu 30. coram *E. A. T. W. R. W.* & *T. L.* juſtic. & aliis dominæ reginæ fidelibus tunc ibid. preſentibus inter *G.* & *I.* & *W. W.* quer. & *I. C.* & *I.* uxorem deforc. de quarta parte 2 meſſuagiorum, 4 toftor. 2 gardinor. 2 pomar. ducent. acr. terræ, 20 acr. prati, 40 acr. paſturæ, 12 acr. boſci, & 100 acrar. more cum pertin. in *G.* & *L.* in quatuor partes diviſ. unde placitum conventionis ſumm. fuit inter eos ead. curia. Scilicet, quod predict. *I.* & *I.* recogn. predictam quartam partem cum pertin. eſſe jus ipſius *G.* ut illam quam iidem *G.* & *W.* habent de dono predict. *I.* & *I.* Et illam remiſ. & quiet. clam. de ipſis *I.* & *I.* & hered. ipſius *I.* predictis *G.* & *W.* & hered. ipſius *G.* in perpetuum. Et preterea iidem Io. & Ia. conceſſerunt pro ſe & hered. ipſius Ia. quod ipſi warrant. predict. G. & *W.* & hered. ipſius G. predict. quart. partem cum pertin. contra predict. *I.* & *I.* & hered. ipſius Ia. in perpetuum. Et pro hac recogn. *&c.* iidem *G.* &. *W.* conceſſerunt predictis *I.* & *I.* predictam quartam partem. cum pertin. Et illam eis reddider. in eadem curia. Habend. & tenend. eiſdem *I.* & *I.* de capitalibus dominis feodi illius per ſervic. quæ ad predictam quartam partem pertinent tota vita ipſorum *I.* & *I.* & eorum alterius diutius viven. abſque impetitione alicujus vaſti. Et poſt deceſſum ipſorum I. & I. predict. quarta pars cum pertin. integre reman. B. C filio predictorum I. & I. & hered. de corpore ipſius B. legiti-

me procreat. Tenend. de capital. dominis feod. ill. &c. in perpetuum. Et si contingat quod idem B. obierit sine hered. de corpore suo legitime procreat. tunc post decessum ipsius B. predicta quarta pars cum pertinen. integre reman. P. C. al fil. predict I. & I. & hered. de corpore, &c. Tenend. de capitalibus, &c. in perpetuum. Et si contingat quod idem P. obierit, &c. tunc post decessum ipsius P. predicta quarta pars integre reman. R. C. al fil. predictorum I. & I. & hered. de corpore, &c. Tenend. de capitalibus, &c. in perpetuum. Et si contingat quod idem R. obierit, &c. tunc post decessum ipsius R. predict. quarta pars cum pertin. integre reman. rectis hered. predict Ia. Tenend. de capital. dominis feod. illius pe servitia quæ ad predict. quartam part. pertinent in perpetuum, &c.

A Fine of Lands part in possession, and part in reversion of a third part for term of the life of the tenant in dower, and for term of the life of another tenant for term of life.

Ebor. ss. Præcipe I. VV. & A. uxori ejus, quod juste, &c. ten. I. E. &c. E. E. con. de uno mess. &c. nec non de tertia parte in tres partes dividend. quatuor mess. cum pertin.

Et est concordia talis, scilicet, quod predict. I & A. recegn. tenementa predicta, ac tertiam partem predict. cum pertinen. ita esse jus ipsius I de quibus iidem I. E. & E. E. habeant unum mess. cum pertin. in predictis vill. de T. & B. parcell. tenementorum predictorum, ac predictam tertiam partem quatuor mess. &c. cum pertinentiis in T. & B parcell. tenementorum predictorum de dono predictor. I. & A. & fil. remiser. & quiet. clamaver. de ipsis I. & A. & heredibus suis pretatis I. E & E. E. & heredibus ipsius I. in perpetuum. Et concesser. pro se & hered. ipsius A. quod vigint

acras

acræ terr. sex acr. prati, *&c.* cum pertinen. in pred. villa de B. parcell. tenementor. & tertia pars pred. quæ I. A & *E.* uxor ejus tenent. ad terminum vitæ ipsius *E.* de heredit. pred. *A.* die quo hæc concordia facta fuit. Et quæ post decess. ipsius *E.* ad predict. I. A. & heredes suos debuer. revert post decess. ipsius *A.* integre remaneant pred. I. & E. & E. E. & hered. ipsius I. in perpetuum. Concesser. etiam predicti I. VV. & *A.* pro se & hered. ipsius *A.* quod unum mess. cum pertinentiis in predict. vill. de B. residuum tenementorum predict. quæ I. A. tenet ad terminum vitæ suæ de hereditate predict. *A.* die quo hæc concordia facta fuit post decessum ipsius *A.* integre remaneat predictis I. E. & E. & hered. ipsius E. in perpetuum.

A Grant and Render of a Reversion of a moiety.

Ebor. ss. Præcipe N. G. & E. uxori ejus, VV. G. & B. uxori ejus, quod ten. *F. A.* convenc. de medietate manerii de H. cum pertin. *&c.*

Et est concordia talis, scilicet, quod cum E. *A.* vidua, nuper uxor *W. A.* defuncti, habet & tenet predictam medietatem manerii de H. cum pertinentiis, ac predictam medietatem tenementorum & piscariæ predict. cum pertin ad terminum vitæ suæ absque impetitione alicujus vasti. Et quod post mortem ejusdem C. predicta medietas manerii, tenementorum & piscariæ predictorum remaneant executor. testamenti ejusdem E ad terminum sexdecem annorum tunc prox. sequen. post mortem ipsius *E.* absque impetitione vasti, & quæ post mortem predictæ *E. A.* ad terminum predictorum sexdecim annorum a N. G. & *E* uxor ejus, & VV. G. & B. uxor ejus, & hered. dictorum *E.* & B. revertere debeient. predict. VV. G. & B. uxor ejus, N. G. & *E.* uxor ejus, concedunt quod dictæ medietates dictorum manerio rum, tenemen. or. & piscariæ

cariæ cum pertin. poſt mortem predictæ *E. A.* & poſt pred. terminum xvi annorum finitum & determinat. integre remaneant prefato *F. A.* & heredibus ſuis. Tenend. de capital. dominis feod. ill. per ſervitia quæ ad pred. medietatis dictorum manerii, tenement. & piſcariæ cum pertinentiis pertinent. Et ill. remiſ. & quiet. clamar. de ipſis *W.* G. & uxor. ejus, N. G. & E. uxori ejus, & hered. ſuis prefat. *F. A.* & hered. ſuis in perpetuum. Et preterea iidem VV. G. & B. N. G. & E. conceſſer. proſe & hered. ipſius N. quod ipſi warrant pred. reverſionem medietatis dictorum manerii tenementorum & piſcariæ cum pertin. præfat. *F. A.* & hered. ſuis contra ipſos VV. G. & B. N. G. & E. & heredes ſuos in perpetuum. Et pro hac, *&c.* idem F. conceſſit præfat. VV. G. & B. N. G. & E. predict. reverſionem medietatis manerii, tenementorum & piſcar. predict. cum pertinen. Et ill. eis reddider. in eadem curia. Habend. & tenend. eandem reverſionem medietatis manerii, tenementorum & piſcariæ predict. cum pertinen. dictis VV. G. & L. N. G. & E. à feſto Apoſt. Phil. & Jacob quod tunc prox. erit poſt finem dictorum ſexdecem annorum, uſque ad finem & terminum xxi annorum extunc proxim. ſequen. & plenarie complend. abſque imperitione alicujus vaſti.

Hitherto of Fines and Concords.

SECT.

SECT. XII.

The Course how to sue out a Recovery in the Common Pleas.

YOu must first draw your *Precipe* in paper, and carry it to the Cursitor of the county where the Land lies, for him to make your Writ of *Entry* in the *post*: which Writ when the Cursitor hath made you, carry it to the *Alienation*-office in the Temple, and there compound it with one of the commissioners, then pay the fine to the Receiver who there attends to take it: and there you must have the Writ of *Entry* entred and indorsed, with Mr. *Crewes* hand and two of the Commissioners hands more unto it, and then carry it back to the Cursitor to be sealed; which being done, it must thence go to the Kings Attorney for his hand unto it, where it will lodge a day or two.

Then if the Tenant of the Land appear in person, so that your Recovery is to be drawn at the Bar, then you must enter your *Precipe* in the *Prothonotaries* first remembrance, after this manner.

Southt. ss. *Pr. C. D. quod reddat R. T. unum messuagium & viginti acras terræ cum pertinentiis in D. quæ clamat, &c.*

In the margent of the Remembrance mark the appearance of those that are to be vouched, in this manner.

Tenens propr. persona voc. G. qui vocat H. &c.

Then

Then when you are ready to have it drawn at the Bar, having your Tenant and *Vouchees* ready, deliver the Remembrance into a Sergeants hand at the Bar, the Court being at leasure, and he will soon dispa ch you.

If your recovery be with a single Voucher, it requires three Sergeants; if a double Vcucher, there must be four Sergeants.

When this is done, draw your recovery, and make your Writ of seisin, and enter and exemplifie your recovery, getting your Writs of entry and seisin returned and filed.

The form of a Writ of Seisin upon a Recovery in Entry in the *post*.

Suthr.ff. *Carolus Secundus* &c. *Vic. H. salutem, scias quod A. B. in Cur. nostra coram Justiciar. nostris apud Westm. recuperavit seisinam suum versus R. T. de uno messuagio cum pertin. in R. & H. per breve nostrum de ingress. super dilect. in le post Et ideo tibi precipimus quod pref. A. plenar seisin. de tenementis pred. cum pertin. sine dilat. habere facias. Et qualiter hoc precept. nostrum fueris execut. constare facias Justic. nostris apud W. stm. a die Pasc. in quindena dies. Et habeas ibi hoc breve. Teste*, &c.

The Return of the Writ of Seisin.

Virtute istius brevis mihi directi, quarto die Februarii, Anno infra script. habere feci infra-nominat. A. plenar. seisinam detentis infra-script. prout interius mihi precipitur.

A. B. Mil. Vic.

A recovery may also be sued out by *Dedimus potestatem*,

ſtatem, if the Tenant do not appear at the Bar in perſon.

You muſt then have a *Sum. ad Warr.* againſt the Tenant: and at the ninth return after the return of the VVrit of Entry, accounting that for one, the Writ of Summons, with the awarding of it, and Warrants of Attorney, whether taken before a Judge or by ſpecial Commiſſioners: if by ſpecial Commiſſioners, then the *Dedimus poteſtatem* and *Mittimus* all being filed together, muſt be delivered to a Sergeant at the Bar, who with three more of them muſt then draw the recovery at the Bar, which is to be recorded by the Prothonotary: and then enter and exemplifie your recovery.

You may alſo, if you pleaſe, exemplifie both the Writ of Entry and ſeiſin, with their returns, leſt they ſhould be miſfiled or miſcarried: and if you would ſearch for any recovery long ſince acknowledged, you may properly find it with the Clerk of the Warrants.

Recoveries for aſſurances, &c.

IN every Recovery are to be regarded the Demandant, the Tenant of the Land, and the Vouchee, as the efficient cauſes thereof; the Land demanded, as the matter, which muſt as certainly be ſet down in Writs of Entry, as in VVrits of Covenant, whereupon fines are levied: The end and effect of ſuch recoveries, is to diſcontinue and deſtroy Eſtates Tails, Remainders, and Reverſions, and bar the former owners thereof.

The Demandant is he that bringeth the VVrit of Entry, and may be termed the Recoverer.

The Tenant is he againſt whom the VVrit is brought, and may be termed the Recoveree.

The

The Vouchee is he whom the Tenant voucheth or calleth to warranty for the Land in demand.

And such persons may be Demandants, Tenants, and Vouchees in these Recoveries, as may be Cognisors and Cognisees in Writs of covenant, and by such names, *mutatis mutandis*: saving that if any Recovery be had against any tenant in tail, the reversion or remainder being in the King, or the gift of the King, or of any of his Majesties Progenitors Kings of *England*, such Recovery will neither bar the issue in tail of his Entry, nor discontinue his estate, nor pluck such reversion or remainder out of his Majesty, 34 *Hen.* 8. *cap* 20. *Quære tamen si tiel recoverie barre lissue in tail* during the continuance of the estate tail. *Dyer*, *fol.* 132. *pla.* 1.

Item, Before such persons, by such means, and in such manner may warrants of attorney be knowledged and certified, as fines knowledged in the Country, saving that the recognisance of warrants of attorney may be taken by any Justice or Sergeant without a Writ of *Dedimus potestatem*: and fines must be paid upon Writs of Entry as upon Writs of Covenant: and all such Writs of Entry must be signed by the Kings Attorney before they can be sealed.

In a Recovery with double voucher, the fine must be sued first, to make him tenant at the time of the writ of Entry brought; for every writ of Entry must always be brought against him that is tenant of the freehold of the Land demanded, at the time of the Writ brought. 18 *R.* 2. and *Dyer*, *fol.* 252. *pla.* 98.

And if the tenant have but an estate for life, or in dower, or by the courtesie, then to have a good Recovery thereof, it is meet that such tenant make a conditional Surrender of his estate to him in the reversion or remainder, to the end he may be a perfect tenant of the inheritance, and then to bring the Writ of Entry against

againſt him; and after that the Recovery is executed, the particular Tenant for breach of the condition may enter and enjoy his Term, notwithſtanding ſuch Surrender.

Of what things Writs of Entry may be brought, and by what names.

PRæcipe quod reddat *li th*, de una acr. terræ, aqua cooperta, vel de acra terræ, 12 Henrici ſept. fol. 4. de gurgite, 10 Edwardi 3. & 14 Edw. 3. 842. Fitz. natur. br. fol. 191. H. & de paſſagio ultra aquam. Fitz. natur. br. fol 191. I. de balliva, 34 Edw. 3. 423. de officio, 27 Henrici octavi fol. 12. de advocatione Eccleſiæ, aut de quarta parte decimarum, 34 Edward. 3. de portione decimarum, Dier fol. 84. plac. 83. de quadam parcella terræ, Dier fol. 84. plac. 83. de cuſtod. terræ & hæred', ſive de cuſtod. terræ. Regiſtr. 161. 22 Edw. 3. fol 19.

Præc. quod reddat *lieth of all manner of Eccleſiaſtical or ſpiritual profits:* ut de rectoriis, vicariis, portionibus, pensionibus, decimis, *&c.* per ſtatut. 32 Hen. 8. cap. 7. de omnibus & omnimodis decimis majoribus, mixtis & minutis, infra villam ſive hamlet de B. in parochia de *A.* quoquomodo increſcent. contingen. ac annuatim renovan. *&c.* The. li. 8. cap 9. S. 2. de 4. parte decimarum & oblationum Eccleſiæ Sanct. P. *&c.* 16 Edw. 3. *In old time* de hida terræ, per Glanvile, de carucatu terræ, 4 E. 3 161. de bovat. terræ, 6 E. 3 291. de ſex pedibus terræ in longitudine, & 4 pedibus in latitud. 14 Aſſ. 13.

A Præcipe quod reddat *lieth* de toſto & fitu molendini, 14 E. 3. de hundredo de G. & ballivato de B. 34 Edw. 1. 3 Edw. 3. de paſtur. ad ſex boves, 3 Ed. 3. fol. 23. 4 *E.* 2. de roda terræ, 3 *E.* 5. de advocatione, 34 Edw. 1. de quadam portione terræ, 11 Hen. 4. fol. 40.

5 Hen.

5 Hen.7.fol.9.de medietate unius rode terræ, 41.E 3. de shopa, Regiſtr. fol. 2. 2 de 4.acr. alnet. 11 Aſſ. 13. de turbar. *by the name of* More, 8 Ed. 3. fol. 387. *and it lyeth in a Town, and not in a Hamlet*, 8 E 3. fol. 55. 7 E. 3. 9.

Of what things a Writ of Entry lyeth not.

PRecipe quod reddat *lieth not*, de foſſato, nec de ſtagno, nec de piſcaria, 8 E.3. 381. nec de advocatione decimarum unius carucat. terræ. Regiſtr. fol. 29. nec de communia paſtur. 27 H. 8. fol. 12. de eſſoveriis, 2 E 3. de homagio & fidelitat. nec de ſervitiis faciendis, 6 E. 2.

A Precipe quod reddat lieth not *de bovat. mariſci*, 13 E 3 *fol.* 3 *de ſoliene terræ*, E.1. for the incertainty, becauſe a Selon which is a Land, ſometimes conteineth an acre, ſometime half an acre, ſometime more, and ſometimes leſs, It lyeth not of a Garden, Cottage, or Croſt, 14 *Aſſ.* 13 8 *Hen.* 6. 3. 2 E. 4. 213. *de virgata terræ* 41 43 13 E. 3 *de fodina, de minera, de mercatu*, 13 E.3. for they lie not in Demeſns, but in Gain, *nec de ſuperiori camera*, 3 *H.6. fol.* 1.

A Writ of Entry ought not to contain the ſame thing twice, as a meſſuage, and a houſe parcel of the ſame meſſuage, 3 Ed 4. fol 28. 46 E 3. *fol.* 25. Not to name a Town, and a Hamlet within the ſame Town, 22 Edw. 3. *fol.* 11. 41. 41 Ed. 3 *fol.* 22.

In every Warrant of attorney it is good to put two Attorneys at the leaſt, for fear of death.

In a County Palatine, as *Lancaſter*, *Dureſm*, *Cheſter*, &c. may be put in a Warrant one Attorney, and one of the Iuſtices Clerks.

If the Writ of Entry be returnable *Craſtino Martini*, the Writ of *Summons ad warr.* thereupon muſt bear

Teſte

Teste from the return of *Craſtino Martini*, and be returnable 9 Returns, after the return of the VVrit of *Entry inclusive*; that is, accompting *Craſtino Martini* for one of the 9 Returns, and *Tres Paſchæ*, which is the ninth return after *Craſtino Martini*, for another. And the *Teste* of the VVrit of *Seiſin* muſt be the day of that ninth return, and be returnable fifteen dayes after. Then the VVrit of *Seiſin* may be returned, that *Seiſin* was delivered by vertue thereof to the Demandant, by the Sheriff of the County, where the Lands lie, upon any day (not being Sunday) between the *Teſte* and return of the ſaid VVrit of *Seiſin*. Then the VVrits of *Entry*, *Summons* and *Seiſin* muſt be returned and filed with the *Cuſtos brevium*, and the Judgments entred by the Prejgnotary, and the VVarrants of Attorney by the Clerk of the VVarrants.

If a ſingle recovery and a fine be againſt the Tenant, the VVrit of *Entry* muſt bear date and *Teſte* before the VVrit of Covenant, and be returned before

If a VVrit of Covenant be brought againſt the Tenant, and a VVrit of *Entry* againſt the Demandant; then the VVrit of Covenant muſt bear date, and be returned before the VVrit of *Entry*. And this is called a double Voucher.

A Certiorari to the Executor of the Juſtice, before whom the Warrants were knowledged.

CArolus Dei gratia Angl. Scot. Franc. & Hiberniæ Rex fidei defenſor, *&c.* dilecto ſibi I. R. ar. executori teſtamenti Fr. R. nuper unius Juſtic. noſtrorum de banco, ſalutem Volentes certis de cauſis certiorari ram ſuper quodam warrant. attorn. per quod H. S poſuit loco ſuo W. B. & R C. conjunctim & diviſim verſus R. P. alias VV. & R.H. de placito terræ in

comitat. E. quam ſuper quodam alio warrant. attorn. per quod H. L. & I L. quos prædictus H S. voc. de warrant. poſuerunt loeis ſuis A. B. & F. R. conjunctim & diviſim verſus prædict. R. & R. H de placito terræ in dicto comit. E. per præſat. F. R nuper capt. ac in cuſtod. tua ratione executionis teſtamenti prædicti exiſten. ut dicitur. Tibi præcipimus quod warrant. prædict. Juſtic. noſtris de banco apud Weſtmonaſt. ſub ſigillo tuo diſtincte & aperte ſine dilatione mittas, & hoc breve, ut iidem Juſtic. inſpect. warrant. prædict. ulterius in quodam brevi noſtro de ingr. penden. coram præſat. R. & R. H. & predictum H S. de uno meſſuagio, &c. cum pertinentiis in T. & D. in comitat. predicto, & proceſſ. inde fieri fac', quod de jure, & ſecundum conſuetudinem regni noſtri Angl. fuerit faciend. T meipſo apud Weſtmon. 29 die Nov. anno regni noſtri 23.

It is returned thus:

Reſponſ. infranominati I. R. ad hoc breve.

Execut. iſtius brevis patet in quadam ſcedula huic brevi annex.

Ebor. ſſ. Præc. H.S. quod juſte, &c. Redd. R. P. alias W. & R. H. unum meſſuagium, &c. cum pertinen. in T. & D. quod clam. &c.

Ebor. ſſ. H. S. po: lo: ſuo, W. B. & R. C. conjunctim & diviſim verſus R. P. alias W. & R. H. de placit. terr.

Ebor. ſſ. H. L. & I. L. quos H. S. voc. ad warrant. po: lo: ſuo A.B. & F.R. conjunctim & diviſim verſus R. P. alias W. & R. H. de placito terræ.

Capt.

Capt. & cognit. apud W. in comit. C. xvii. die Febr. anno regni domini Carol. &c. xx. I. R.

A Recovery with ſingle Voucher.

Ebor. ſſ. PRæc. G. C. armigero quod juſte, &c. redd. R. & R. I. unum meſſuagium & quatuor acr. terr. cum pertin. in T. quæ clam. &c. & in quæ, &c. Et niſi, &c.

G. C. po: lo: ſuo, N. M. & M. M. attorn. ſuos conjunct. & diviſim verſus R. C. & R. I. de placito terræ.

A Recovery with double Voucher.

Derb. ſſ. PRæc. N. L. & M. uxori ejus quod juſte, &c. redd. T. S. & T. C. Maneria de N. M. & P. cùm pertin. ac 30 Meſſ. 30 toſta, 5 molendina, 30 gardin. 30 pomaria, 1000 acr. terræ, 1000 acr. prati, 500 acr. paſtur. 40 acr. boſci, 1000 acr. more, 200 acr. jampnorum & bruer. & 3 libras redd. cum pertin. in N. M. P. P. & B quæ clam. eſſe jus & hæred. ſuam, & in quæ idem N. & M. non habent ingr. niſi poſt diſſeiſinam quam H. H. injuſte & ſine judicio fecit præfatis T & T. infra 30 an. jam ultimo elapſos, &c. ut dic. unde quer. &c. Et niſi, &c.

Derb. ſſ. M. I. & M. uxor ejus po: lo: ſuo, T. B. & W. B. attorn ſuos conjunctim & diviſim verſus T. S & T. C. de placito terræ ad lucrand. vel perdendum.

Derb. ſſ. W. B. & T. F. quos N. L. & M. uxor. ejus vocant ad warr. po: lo: ſuo, P. P. & Q. Q. attorn. ſuos conjunctim & diviſim verſus T. S. & T. C. de placito terræ ad lucrandum vel perdendum.

A Recovery with a treble Voucher.

Eſſex ſſ. PRec. *R. B.* & *C. S.* quod juſte, *&c.* reddant A. T. armig. Maner. de B. &. Q. cum pertin. ac 20 meſſuag. duodecim toſta, quatuor Columbar', mille acr terr. C. acr. prati C. acr. paſtur. CC. acr. jampnor. & bruere, C. acr. more, & triginta ſolid. et unum obol. reddit. ac reddit. unius lib e et dimid i piperis, et unius gran. piperis, cum pertin in B. et Q. ac liberam piſcariam in aqua de VV. neçnon advocationem Eccleſiæ de B. quæ clam. *&c.*

Eſſex ſſ. *R. B.* et *C. S.* po: lo: ſuo *W. W.* et *R. R.* attorn. ſuos conjunctim verſus *A. T.* de placito terræ.

Eſſex ſſ. *M. M* gen. quem *R. B.* et *C. S.* vocant ad warran. po: lo: ſuo, *I. I.* et *L. L.* attorn. ſuos conjunctim et diviſim verſus *A. T.* de placito terræ.

Eſſex. ſſ. *G. W.* gen. quem *M. M.* voc. ind. ad warr. po: lo: ſuo *R. G.* et *R. S.* attorn. ſuos conjunctim et diviſim verſus *A. T.* de placito terræ.

A Recovery of an Advowſon in the County Palatine of Cheſter.

PLacita apud Ceſtr. coram *R. T.* milit. Juſtic. domini Regis apud Ceſtr. de Seſſione tent. ibidem die June ultim. die Septembr. Anno regni Caroli Dei gratia Angl. Scot. Franc. et Hibern. Regis fidei defenſor. et in terr. Eccleſiæ Angl. Scot. et Hiberniæ ſupremi capitis 34.

Cheſtr. ſſ. *H. S.* armiger *T. B.* attorn. ſuum petit verſus *H. D.* armigerum advocationem Eccleſiæ de *T.* quam ei injuſte deforc. *&c.* Et unde dic. quod ipſe-

met

met fuit ſeiſit. de advocatione Eccleſiæ prædi. ut de feod. et jure infra 30 annos jam ultimo elapſos, tempore pacis, tempore domini Regis nunc, et ſic inde ſeiſit. eodem tempore ad eandem Eccleſiam preſentavit quendam *R. A.* Clericum ſuum, qui ad præſentationem ſuam fuit admiſſus, inſtitutus et inductus in eadem; Capiendo inde explec. ut in groſſis decimis, minutis decimis, oblationibus et obventionibus ad valenc. *&c.* ut de jure Eccleſiæ ſuæ prædictæ, *&c.* Et quod talc ſit jus ſuum, offert, *&c.*

A Recovery in a Writ of right de Præcipe de Capite.

CArolus Dei gratia, *&c.* Omnibus ad quos præſentes literæ patentes pervenerint, ſalutem. Sciatis quod I. comes S. in curia noſtra coram Juſticiariis noſtris apud VVeſtm. per breve noſtrum de recto de præcipe in capite petiit verſus T. B. ſeniorem et I. uxorem ejus manerium de C. cum pertin. ac unum Meſſ 50 acr. terræ, 50 acr. prati, *&c.* cum pertinen. in C. C. B. H. juxta T. ut jus et hæreditatem ſuam: quod quidem breve una cum retorn. ejuſdem ac placitum ſuper idem breve cum omnibus aliis placitum illud tangentibus ſequit. in hæc verba.

Carolus Dei gratia, *&c.* Vicecom. Hereſ. ſalutem. Præcipe T. B. ſeniori, et I. uxori ejus, quod juſte et ſine dilatione reddant I. Comiti Salop maneriu.n de C. cum pertinentiis, ac unum meſſuag. *&c.* cum pertinentiis in C. B. et H. juxta T. quæ clamat eſſe jus et hæreditatem ſuam, et tenere de nobis in capite. Et unde quæritur quod prædict. T. et I. ei injuſte deforceant. Et niſi fecerint, et prædict. Comes fecerit te ſecur. de clamore ſuo proſeq; tunc ſumm. per bonos ſummon prædictos T. et I. quod ſint coram Juſticiariis noſtris apud VVeſtmonaſterium à die Paſchæ in quindecim dies, oſtenſ. quare non fecer. Et habeas

ibi ſumm. & hoc breve. Teſte meipſo apud Weſtmonaſterium ſecundo die *Aprilis*, anno Regni noſtri viceſimo tertio.

Pleg. de proſequend. R.D.& I.R.

Reſponſio I S. Militis Vicec. Summ. T.B.& I. uxor. ejus inſraſcript. H. F. & R.I.

Placit. apud Weſtmonaſt. coram I.P. & ſociis ſuis Juſticiar. domin. Reg. de banco de termino Paſchæ, anno Regni, &c. 6 Rotulo CC.

Heref. ſſ. Joh. Comes Salop. per I. S. *Attornatum* ſuum, petit verſus T.B ſen.& I. uxorem ejus manerium de C. cum pertinentiis,ac unum meſſuagium, &c. cum pertinentiis in C. B.& H. juxta T per breve domini Regis de præcipe in capite, &c. Et unde dicit quod ipſemet fuit ſeiſitus de manerio, meſſuag. terr. &c. cum pertinentiis, in dominico ſuo ut de feodo, & jure tempore pacis tempore domini Regis nunc, capiendo inde explec. ad valentiam, *&c.* Et quod tale ſit jus ſuum offert, *&c.*

Et prædicti T. & I per W. B. *Attornatum* ſuum,ven. & defendunt jus prædict. Comitis & ſeiſinam ſuam, & maxime de manerio, meſſuag *&c.* ei warrant. *&c.* & ſuper hoc prædictus Comes petit verſus ipſum W.P. manerium, meſſuagium, *&c.* cum pertinentiis in forma prædicta, *&c.* Et unde dic.quod ipſemet fuit ſeiſitus de prædict. Manerio, meſſuag. *&c.* cum pertinentiis, in dominico ſuo ut de feodo & jure, tempor. pacis, tempore domini Regis nunc, capiend. inde explec. ad valentiam, *&c.* Et quod tale ſit jus ſuum offert, *&c.*

Et prædictus W. P. tenens per warrant. ſuam defendit jus prædict. Comitis & ſeiſinam ejus, & maxime de manerio, meſſuag. terr. *&c.* cum pertinentiis, & totum, &c. Et ponit ſe inde in magnam *Aſſiſam* domini Regis, & petit recogn fieri utrum ipſe magis

jus

jus habeat tenend. manerium, meſſuagium, terr. *&c.* cum pertinentiis, ut tenens per warrant. ſuam, ut ea tenent. an prædictus Comes habend. Manerium, meſſuag. terr. *&c.* cum pertinentiis, ut ea ſuperius per. *&c.* Et prædictus Comes petit licentiam inde interloquend. *&c.* Et habuit, *&c.*

Et poſtea idem Comes per *Attornatum* ſuum prædict. reven. hic in Curia, & prædict. W. P. licet ſolemnitur exact. non reven. ſed in contempt. cur. defaltam fec. Ideo conſiderat. eſt quod prædict. Comes recuperet ſeiſinam ſuam verſus prædict. T. & I. de præd. maner. meſſuag, *&c.* cum pertin. tenend. eidem Comiti & hæred. ſuis quiete de prædict. T. & I. & hæredibus ſuis in perpetuum.

Et prædicti T. & I. habeant de terr. prædict. W. B. ad valentiam manerii meſſuag. terr. *&c.* prædict. cum pertinentiis. Et prædict. W. P. in miſericordia, *&c.*

Warrant. Attornat. inde ſequitur in hæc verba.

Heref ſſ Joh. Comes Salop. po: lo: ſuo I. S. verſus T. B. ſeniorem, & I. uxorem ejus de placito terræ.

Heref. ſſ. T. B. ſenior & I. uxor ejus, po: lo: ſuo, W. B. verſus Joh. Comitem Salop, de placito terræ.

Quæ omnia & ſingula ad requiſitionem prædicti Comitis exemplificari fecimus, & magnum ſigillum noſtrum, quo utimur ad hujuſmodi exemplificationes, necnon ad quæcunque brevia judicialia extra bancum prædict. exeunt. ſigillandi. præſentibus opponi fecimus. Teſte I. P. apud Weſtmonaſterium XVIII. die Maii, anno Regni noſtri viceſimo tertio.

Remissio Curiæ in brevi de Recto.

EXcellentissimo Principi domino C. Dei gratia, &c, T. VV. salut. in eo per quem Reges regnant, et Principes dominantur. Quia A. in curia vestra coram Justiciariis vestris de Banco per breve vestrum de Recto D. E. de uno messuag cum pertinen. in S. quod de me tenetur, licentia mea mediante proponit im p'acitare, vestræ Celsitudini Regiæ tenore presentium significo, me cur. meam vobis inde hac vic. remisisse. Salvo mihi alias jure dominii in casu consimili cum acciderit. In cujus rei testimonium, has literas meas feci patentes: sigillo meo signat. Dat, tertio die Maii, Anno Regni, &c.

The exemplification of a Recovery enrolled according to the Statute 23 Eliz. cap. 3.

CArolus Dei gratia, Angliæ, Scotiæ, Franciæ, et Hiberniæ Rex, fidei defensor, &c. Omnibus ad quos presentes literæ nostræ pervenerint, salutem. Sciatis quod inter Irrotulamenta brevium et aliorum dependen. pro communibus recuperationibus secund. formam statuti de termino Paschæ apud VVestmon. Anno Regni Eliz. 29. Rotul. primo, continetur sic:

Essex ss. Elizabeth Dei gratia Angliæ, Franciæ, et Hiberniæ Regina, fidei defensor, &c. vic. Essex salutem. Precipe I VV. et I. S. quod juste et sine dilatione reddant Jo. St. et T P. quatuor messuagia, quatuor gardina, 200 acras terræ, 100 acras prati, trecentas acras pasturæ, quadraginta acras bosci, et 200 acras jampnotum et bruere. cum pertin. in B. T. T. C D et H q æ clamant esse jus et hæreditatem suam, & in quæ idem Joh. VV et I. S. non habeant ingressum, nisi post disseisinam quam H. H. inde injuste

&

& ſine iudicio fecit prefat. I, S. & Tho. infra triginta annos jam ultimo elapſos, ut dicunt. Et unde querun-tur quod predicti I. W. & I S. eis deſore. Et niſi fe-cerint & predicti I. S. & Tho. fecer. te ſecur. de cla-mo e ſuo prof. tunc ſ mm per bonos ſumm predictos I.W. & I.S. quod ſint coram Juſticiariis noſtris apud Weſtmonaſt. à die Sanct. Michaelis in quindecim dies, oſtenſuri quare non fecerint. Et habeas ibi ſumm. & hoc breve. Teſte meipſa apud Weſtm 24. die Septemb. anno regni noſtri decimo. Gibon. Pleg. de proſ. Joh. Doe, Rich. Roo. Summ. Joh. Den, Richard. Fen G. T. armig. vic. ſſ.

Elizabeth Dei gratia, Angl. Franc & Hiberniæ Reg. fid defenſ. &c. Vic. Eſſ-x ſalut. Summ. per bo-nos ſumm. E. W armigerum & uxor. ejus, quod ſint coram Juſticiariis noſtris apud Weſtm. a die Sancti Hilarii in xv. dies ad warr. Joh. W. & I. S. quatuor meſſuag. quatuor gardin 200 acras terræ, centum acr. prati. 300 acr. paſturæ. quadraginta acr. boſci. & 300 acr. jampnorum & bruer e, cum perrin. in B. T. T. C. D. & H. quæ Jo. St. & Tho. P. in Curia noſtra coram Juſticiariis noſtr. apud Weſtmon. clam. ur jus ſuum per breve noſtrum de ingreſſ. ſuper diſſeiſinam in le poſt verſus eos. Et unde iidem Joh. W. & I. S. in ea-dem cur. noſtr. voc. predictos Edm. et Joh. ſumm. in comit. tuo ad warr. verſus eos. Et habeas ibi ſumm. et hoc breve. T. I. D. apud Weſtm. xvi die Octob'is, anno regni nuper decimo. Lone. ſumm. Iohannes Den, Ric. Fen, T. L. ar. vic. ſſ. Io. St. et Tho. P. po. lo ſuo R. E. verſus Iohannem W. et I. S. de placito terræ ſſ. Iohannes W. et I. po. lo. ſuo I. A. verſus Ioh. St. et Tho. P. de placito terræ ſſ. Edmundus VV. armig. et Iohanna uxor. ejus quos Iohannes VV. et I. S. voc. ad warr. po. lo. ſuo R. C. verſus Jo. S. et Tho. P. de placito terr. Quæ omnia et ſingula ad requiſitio-nem VVill. VV. gener oſ. tenore preſentium duximus exemplificand.

exemplificand. In cujus rei teſt. ſigill noſtr. ad brevia in Banco ſigilland. deputat. preſentibus apponi fecimus T. F. W. P & F. R. Juſtic. de Banco predicto apud Weſtmonaſt. xvi. die Junii, anno regni noſtri viceſimo nono.

M. *The Judges which examined their inrolment.* W.M P. & R.

Perdon. alien. ſuper terr. per breve de ingreſſu recuperat.

REx, Omnibus ad quos, *&c.* ſalutem. Cum prædilectus & fidelis conſanguineus noſtr. T. dux Norf. comes mareſcallus Angl & prenobilis ordinis garterii miles, ac dilect. & fideles noſtri W. C. miles principalis Secretar. noſtr. R. Catl. miles nuper ſcilicet termino, *&c.* anno regni noſtri, *&c.* recuperaverunt verſus predictum & fidelem conſiliarium noſtrum N. B. milit. dominum cuſtod. magn. ſigilli noſtri Angl. ex ejus aſſenſu & ad ejus requiſitionem per breve noſtr. de ingreſſu ſuper diſſeiſinam in le poſt, ſecundum curſum, formam & uſum communium recuperation. Maner. de Redgrave, *&c.* in comit. noſtr. Suff. ad diverſos ſeparales uſus, intention. condition & propoſita, ſpecificat. & declarat. in quibuſdam Indentur. factis inter ipſum N. ex una parte, & prefatos ducem W. R. *&c.* ex altera parte geren. dat. ſecundo die Octobr. anno regni noſtri primo, prout per eaſdem Indentur. plenius apparet, cumque etiam iidem dux W. R. *&c.* in maner. terr. tenement. & cætera premiſſa, cum pertin. vi tute recuparac. predict. intraverunt, licentia noſtra Regia inde prius non obtenr. Et de eiſdem premiſſis fuerunt ſeiſit. in dominico ſuo ut de feodo, ad uſus, intentiones, & propoſita in predict. Indentur. ſpecificat. & declarat. Quæ quidem maner. meſſuag. terr. tenement. & cætera premiſſa de nobis tenentur.

in

in capite, ut dicitur. Sciatis quod nos de gratia noſtra ſpeciali, ac ex certa ſcientia, & mero motu noſtris, ſalvo nobis homag. noſtr. perdonamus, remittimus & relaxamus pro nobis, hæred. & ſucceſſoribus noſtr. tranſgreſſ. in ea parte fact. ac omnimod. intrationes & ingreſſus in prædicta Maner. terr. tenement. & cætera premiſſa, ſeu aliquem inde partem ſive parcellam, tam ante præſentem diem quoquomodo fact. ſive perpetrat. quam impoſter. ration. alicujus uſus in predict. Indentur. ſpecific. ſeu declar. fiend. ſeu habend. Et ulterius conceſſimus, ac pro nobis hæred. & ſucceſſorib. noſtr. quant. in nobis eſt, per præſentes concedimus præfat. duci W. R. *&c.* quod ipſi maneria, meſſuag. terr. & tenement. predicta, ac cætera permiſſa cum omnibus & ſingulis ſuis exit. reddit. profic. & pertin. quibuſcunque (except. præexcept.) habeant & teneant ſibi ac hered. & aſſign. ſuis, ad uſus, intentiones, & propoſita in Indentur. prædict. content. & ſpecificat. de nob. hæred. & ſucceſſoribus noſtr. per ſervicia inde debita & de jure conſueta in perpet. abſque imper. moleſt. vexatione, impedimento, ſeu gravamine noſtri, hæred. vel ſucceſſor. noſtr. aut aliquor. Juſtic. Eſcaetor. Vicecomit. Ballivor. aut aliorum officiar. miniſtror. ſeu ſubditor. noſtro, aut hæred. vel ſucceſſor. noſtror. quocunque. In cujus rei, *&c.*

And it is to be noted, that of all Licenſes to alien temporal land in Mortmain, the fine to the King is five years value of the ſame.

Of all Licenſes to alien ſpiritual land (as Appropriations of Churches, or other benefices ſpiritual) the fine to the King is four years value thereof.

Of all Licenſes of alienation made of lands holden of the King in capite, the fine is the third part of the value, the Tenth deducted.

Of

Of all pardons of alienation by the Kings Tenant in capite, the fine is one years value thereof.

Of Licenses of Marriage of the Kings widow, the fine is the third part of the value of her Dower by a year.

Of all pardons of the Kings widow married without License, the fine is the whole value of her Dower by a year.

Exemplification of a Recovery with double Voucher out of the Prothonotaries office.

CAro'us Dei gratia Angl. Scot. Franc. et Hiberniæ Rex, fidei defensor. *&c.* Omnibus ad quos præsentes literæ nostræ pervenerint, salutem. Sciatis, quod inter placita terræ irrotulat. apud VVestm. coram R. A. Milite et sociis suis Iusticiar. nostris de banco, Termin. S. Hill. anno Regni Eliz. 35. rotul. x. continetur sic.

Eborum ff. Fr.VV.et *R.S.* in propriis personis suis, pet.versus I. *R.* duodecim acr. prati cum pertinentiis in M. et K. ut jus et hæreditatem suam, Et in quas idem I.non habet ingressum nisi post dissesinam quam H H. inde injuste et sine judicio fecit præfat. Fr. et *R.* inf a triginta annos, *&c.* Et prædictus i.per VV. VV. Atturnatum suum venit, et alias voc.ad warrant. T. *R.* armigerum, qui modo per summ. ei in comitatu prædict. fact. per T. I. attornatum suum venit, et gratis prædictas duodecim acras prati cum pertinentiis ei warrant. *&c.* Et super hoc prædict. Fr. et *R.* pet. versus ipsum T. tenen. per warrant. suam prædictas duodecim acr. prati cum pertinentiis, in forma prædicta, *&c.* Et unde dic. quod ipsimet fuerunt seisiti de predictis duodecim acr. prati cum pertinentiis in dominico suo ut de feodo, et jure, tempore pacis, tempore Dominæ Reginæ nunc, capiendo inde exviec. ad valenc.

valenc. *&c.* et in quas, *&c.* Et inde produc. ſectam, *&c.* Et predictis T. tenens per warr. ſuam defendit jus ſuum quando, *&c.* Et ulterius voc. inde ad warrant. *R H.* qui præſens eſt hic in Curia in propria perſona ſua, Et gratis predict. duodecim acr. prati cum pertinentiis ei warrant. *&c* Et ſuper hoc predict. Fr. et. *R. S.* pet. verſus ipſum *R H.* tenen. per warr. ſuam predictas duodecim acras prati cum pertinentiis in forma predicta, *&c.* Et unde dic. quod ipſimet fuerunt ſeiſiti de predictis duodecim acr. prati cum pertinen. in dominico ſuo ut de feodo et jure, tempore pacis tempore dominæ Reginæ nunc, capiendo inde explec. ad valentiam, *&c.* et in quas, *&c.* Et inde produc. ſectam, *&c.* Et predictus *R H.* tenens per warrant. ſuam defend. jus ſuum quando, *&c.* Et dic. quod predict. H. non diſſeiſivit prefat. Fr. et *R. S.* de predictis duodecim acr. prati cum pertinentiis, prout iidem Fr. et *R.* per breve et narrationem ſuam predict. ſuperius ſupponunt. Et de hoc ponit ſe ſuper patriam, *&c.* Et predicti Fr. et *R. S.* pet. licentiam inde interloquendi. Et habent, *&c.*

Et poſtea iidem Fr. & R. reven. hic in Curia iſto eodem termino in propriis perſonis ſuis. Et predictus R. H. licet ſolemnitur exact. non reven. ſed in contemptum Curiæ receſſit, & defaltem fecit. Ideo conſiderat. eſt quod predict. Fr. & R. S. recuperunt ſeiſinam ſuam verſus prefat. I. de predictis duodecim acr. prati cum pertinentiis. Et quod idem I. habeat de terra predict. T. ad valentiam, *&c.* Et quod idem T. ulterius habeat de terr. predict. R. H. ad valentiam, *&c.* Et idem R in miſericordia, *&c.* Et ſuper hoc predicti Fr. & R. S. petunt breve Dominæ Reginæ vicecom. comitat. predict. dirigend. de habere faciendo eis plenam iam ſeiſinam de predictis duodecim acr. prati cum pertinentiis. Et eis conceditur, retornabile hic a die Paſche in quindecim dies, *&c.* Quæ omnia & ſingula

singula ad requisitionem predictorum Fr & R.S. tenore presentium duximus exemplificand. In cujus rei testimonium, sigillum nostrum ad brevia in banco predicto sigilland. deputat. presentibus apponi fecimus. Teste E. A apud Westmonasterium duodecimo die Februarii, anno Regni nostri 36.

When the Writ of Seisin *is returned, the return thereof must be entred upon the same Roll whereon the Judgment was entred, as appeareth in the end of this Section.*

Another to the like effect.

CArolus dei gratia Angl. Scot. Franciæ, & Hiberniæ Rex fidei defensor. *&c.* Omnibus ad quos presentes litere nostræ pervenerint, salutem. Sciatis quod inter placita terræ irrotulat. apud Westm. coram E. A. Milit. & sociis suis Justiciariis nostris de banco, scilicet Termino Michaelis, anno Regni Eliz. tricesimo quinto, Rotulo 12 continetur sic.

Notting. ss. R. T. & R. B. in propriis personis suis petunt versus P. T. generosum, & W. H. generosum, maneria de H. & M. cum pertinentiis, ac viginti messuagia, decem tosta, unum molendinum equinum, duo columbar. triginta gardina, quingent. acras terre, ducent. acras prati, sexcent. acras pasture, trecent. acras bosci, mille acras iampnorum & brueræ, quingent. acras moræ, & viginti solidos redd. cum pertinentiis in H. M. D. *&c.* ut jus & hereditatem suam, Et in quæ iidem P. & W. non habent ingressum, nisi post dissesinam quam H. H. inde injuste & sine judicio fecit, prefat. R. & R. infra triginta annos, *&c.* Et unde dicunt quod ipsimet fuerunt seisiti de maneriis, tenementis, & reddit predictis cum pertinentiis, in dominico suo ut de feodo, & jure, tempore pacis, tem-

tempore dominæ Reginæ nunc, capiendo inde explec. ad valenc. &c. Et in que, &c. Et inde producunt sectam, &c.

Et predicti P. & W. in propriis persónis suis venerunt & defend. jus suum quando, &c. Et voc. inde ad warrant. G M. generosum, qui presens est hic in Curia in propria persona sua. Et gratis, maneria, tenementa, redditus predict. cum pertinentiis, eis warrant. &c.

Et super hoc predict. R. & R. petunt versus ipsum G. tenen. per warrant. suam maneria, tenementa, & redditus predicta cum pertinentiis, in forma predicta, &c. Et unde dicunt quod ipsemet fuerunt seisiti de maneriis, tenementis, & redditu predictis cum pertinentiis in dominico suo ut de feodo, & jure, tempore pacis, tempore domine Regine nunc, capiendo inde explec. ad valentiam, &c. & in que, &c. Et inde producunt sectam, &c.

Et predictus G. tenens per warrant. suam defendit jus suum quando, &c. Et ulterius voc. inde ad warrant. D. H. qui similiter presens est hic in Curia in propria persona sua, & gratis maneria tenementa, & reddit. predict. cum pertinentiis ei warrant. &c.

Et super hoc predicti R. & R. petunt versus ipsum D. tenent. per warrant. suam maneria, tenementa, & reddit. predicta cum pertinentiis in forma predicta, &c. Et unde dicunt quod ipsimet fuerunt seisiti de maneriis, tenementis, & reddit. predictis cum pertinentiis, in dominico suo, ut de feodo, & jure, tempore pacis, tempore dominæ Reginæ nunc, capiendo inde explec. ad valentiam, &c. & in que, &c. Et inde producunt sectam, &c.

Et predictus D. tenens per narratione suam defendit jus suum quando, &c. Et dicit quod predictus H. non disseisivit prefatos R. & R. de maneriis, tenementis, & redditu predictis cum pertinentiis, prout

item

iidem R. & R. per breve & narrationem ſuam predicta ſuperius ſuppon. Et de hoc ponit ſe ſuper patriam, &c. Et predicti R. & R. petunt licentiam inde interloquendi. Et habent, &c.

Et poſtea iidem R. & R. reven. hic in Curia iſto eodem termino in propriis perſonis ſuis. Et predictus D licet ſolemniter exact. non reven. ſed in contemptum Curie receſſit, & defaltam fecit, Ideo conſideratum eſt quod predict. R. & R. recuperent ſeiſinam ſuam verſus prefatos P. & W. de maneriis, tenementis, & reddiru predictis cum pertinen. Et quod iidem P. & W. habeant de terra predict. G. ad valentiam, &c. Et quod iidem G. ulterius habeat de terr. predict. D. ad valentiam, &c. Et idem D. in miſericordia, &c. Et ſuper hoc predicti R. & R. petunt breve domine Regine Vicecomiti comitatus predict. dirigend de habere faciend. eis plenariam ſeiſinam de maneriis, tenementis, reddiru predictis cum pertinentis Et eis conceditur, returnabile hic a die S. Martini in quindecim dies.

Ad quem diem hic venerunt predicti R. & R. in propriis perſonis ſuis. Et Vicecomes ſcilicet I. B. Miles modo mandat, quod ipſo virtute brevis illius ſibi directi viceſimo quarto die No. ultimo preterit. habere fecerit prefatis R. & R. plenariam ſeiſinam de maneriis, tenementis, & reddiru predictis cum pertinentiis, prout per breve illud ſibi preceptum fuit, &c. Que omnia & ſingula ad requiſitionem predictorum R. & R. tenore preſentium duximus exemplificand. In cujus rei teſtimonium ſigillum noſtrum ad brevia in Banco predicto ſigilland. deputat. preſentibus apponi fecimus. Teſte, &c. anno regni noſtr. 26.

SECT.

SECT. XIII.
Actions of Debt.

WE ſhall now direct our Sollicitor how to manage his proceedings in ſeveral actions both real and perſonal, and firſt of Debt.

An action of debt lies properly, where one man oweth another a ſum of money by Bond, Bill, Bargain or Contract, which is certain.

If a man owe another 10 pound, and hath a note of his hand for it without a ſeal, an action of debt lies for it upon a *mutuatus*; but herein the defendant may wage his Law: but an action of the caſe lies herein alſo, and in that the defendant cannot wage his Law.

If a man deliver cloath to a Taylor to make him cloaths, and agree with the Taylor upon the price for making thereof; here in caſe of non-payment the Taylor may have an action of debt; but if the price be not agreed upon, then there lies only an action of the caſe *quanto meruit, &c.*

Upon any Specialty if money be due, an action of debt only lies.

Debt lies alſo againſt an heir of the *Obligor*, if the executors have not ſufficient; but *nihil per diſcenſum* is a good plea for the heir.

If a man marry a woman in debt, he is liable to pay her debts during the coverture; but after her death he is not, unleſs there be a Judgement againſt them both during the marriage: if there be, he muſt ſatisfie that Judgment.

If a *feme ſole* hath a leaſe of land for life, rendring rent, and marries, and then the rent is behind, and the wife dyes, an action lies againſt the husband for

this rent, because he received the profit of the land.

If a *feme sole* have owing her 100 pounds by Bond, and marries and dyes, the husband shall not now recover his money unless he take administration of the goods of his wife.

So if there be two *Obligees*, and one dye, the Bond accrues to the Survivor only; and the executors of him that dyes shall not joyn nor have any profit thereby.

A man shall be charged for his bailiffs or servants Contract where he gives warrant to his servant to buy and sell for him; and if a wife contract, having authority from her husband, he is bound to perform it, other wise not.

Upon a Bond and Bill penal for several sums of money, an action of Debt lies till all the days be past: it is other wise upon a single Bill; for there after the first failure an action lies.

But if a man be bound in a Recognizance to pay a 100 pounds at five several days, after the first failure of the first sum, he shall have execution for that sum, and shall not stay till the last day be past: and so it is for a Covenant or Promise, after the first default an action of Covenant lies for the one, and an action of the Case for the other.

If a man covenant by word of mouth to do such an act for a certain sum of money, and take 12 pence or more in earnest, and a day is set down for the rest due; if he do it not accordingly, an action of Debt lies not here, but an action upon the case.

If a man delivers wares to another for 10 pounds to be paid at a certain day, if the money be not paid at the day, an action of Debt lies upon the *Emisset*; and herein the Defendant may wage his Law; or he may bring an action of the case, and there the defendant cannot wage his Law.

A preſident in an Emiſſet *for goods ſold and delivered.*

A. T. is plaintiff in an action upon an *Emiſſet* againſt I. H. The plaintiff ſets forth in his Declaration, That he bought ſo many parcels of ſtuff at ſeveral days as came to thirty pounds, and lays a *mutuatus* for ten pounds more, which is in all forty pounds; *per quod actio, &c.*

The defendant to the *Emiſſet* pleads *deins age*, and ſo likewiſe to the *mutuatus*.

QVod xxxl. de predict. xl. quas predict. quer. virtute emptionis predict. ſuperius exigit verſus eum dic. quod predict. quer. actio non, &c. quia dic. quod ipſe tempore emptionis predict. fuit infra ætatem 21 annorū. Et hac parat. &c. unde petit judicium ſi, &c. Et quoad predict. decem libras de deb. predict. quas predict. quer. virtute mutui predict ſimilit. exigit verſus eum, dic. quod actio non, &c. quia dic. quod ipſe tempore mutui predict. ſimilit. fuit infra ætatem 21 annorum. Et hoc parat. eſt verificare. Unde petit judicium ſi actio, &c.

The Plaintiff replies as to the *mutuat.* that the defendant *non fuit infra ætatem*, and iſſue *ſur ceo*: And as to the *Emiſſet*, that the wares were bought for neceſſary apparel.

ET predict. quer. quoad pred. placitum pred. def. quoad pred. xl. quas pred. quer. virtute mutui predicti exigit verſus eum, præcludi non, &c. quia dic. quod pred. def. tempore ejuſdem mutui fuit plenæ ætatis 21 annorum & amplius, & non infra ætatem, prout pred def. ſuperius allegavit. Et hoc petit quod inquiratur per patriam, & pred. def. ſimilit. Et quoad predict. alterum placitum pre-

dict. def. quoad pred. xxx l. quas ipse virtute emptionis pred. superius exigit versus eum, idem quer dic. quod præclaudi non, &c. quia dic. quod pred. mercimonia per prefat. def de eodem quer. in forma pred. empta, fuerunt empt. de eodem quer. pro necessario apparat. & vestit. corporis pred. def gard. suo eadem requiren. Et hoc, &c.

The Defendant rejoyns as to the Wares, they were not bought for necessary apparel, and issue is joyned thereupon.

ET pred. def. quoad pred. placitum pred. quer. quoad pred. xxx l. per eundem def. virtute emptionis pred. superius exact. replicand. placitat. dic. quod pred. mercimonia per ipsum in forma pred. empta, non empt. fuerunt de pred quer. pro necessario apparat. & vest. corporis ipsius def. prout pred. quer. superius inde allegavit. Et de hoc ponit se super patriam, &c. Ideo quoad triand. tam exitum istum quam, &c.

And upon the Tryal the Jury find *quoad le emisset*, that part to be for necessary apparel, and so it was imployed. *Et assid. dampna ipsius quer. ad 3 l. ultra mis. &c. & pro mis. &c. ad 20 s.*

And *quoad le mutuat.* the Jury finde the defendant to be within age, *&c.*

Then judgement is entred up thus, *viz.*

Ideo cons. est, quod pred. quer. recuperet versus prefat. def. 30 l. de deb. pred. & dampna sua pred. ad 4 l. per Jur. pred. in forma pred. assess. necnon 6 l. & 8 d. eidem quer. ad requisitionem suam promis. & custag. suis predict. per curiam hic de incremento adjudicat. quæ quidem dampna in toto se attingunt ad 10 l. & 8 d. Et pred. def. in mia Et similit. pred. quer. in misericordia pro falso clamore suo versus prefat. def. de resid. d. b. pred. unde ipse acquietat,

quiet at. exiſtat, &c. *Et idem def. eat inde ſine die,* &c.

An Infant is liable to pay for his meat, drink, cloaths, phyſick, teaching, *&c.* and cannot plead under-age to any of theſe: but if he ſhall bind himſelf by Bond for the payment of any of theſe, he may plead *infra ætatem* to that Bond.

An Infant may ſue by his *procbein amy*, and defend by his guardian.

If a man have obtained a judgement againſt another in any Court of Record, he may bring an action of debt upon that judgement; to which the defendant may plead *nul tiel Record.*

An action of Debt lies for an Amerciament in a Court-Baron.

When a judgement is ſatisfied, the Plaintiff is to acknowledge ſatisfaction upon Reco d, at the requeſt and charges of the defendant; the form whereof is this:

Poſtea, ſcilicet, nono die Julii, Anno Regni Domini Regis nunc decimo ſeptimo, ven. hic in cur. pred. quer. per R. T. Attorn. ſuum per ſpeciale Warrantum ei in hac parte conſtitut. & cognovit quod ſatisfactum eſt ei de deb. dampnis pred. Ideo pred. def. de deb. & dampnis illis ſit quiet. &c.

If an action of debt be brought for 40 *l.* and the plaintiff declares upon a Bond of 30 *l.* for part, and a *mutuat.* for 10 *l.* reſidue, the defendant confeſſeth the action of 30 *l.* Bond; and as to the *mutuat.* he pleads *nil debet per patriam:* Now judgement and coſts ſhall be reſpited as to the 30 *l.* till the iſſue upon the *mutuat.* be tryed; and then judgement ſhall be entred, and coſts ſigned for both together; it being neceſſary that there ſhould be but one taxing of coſts, *&c.*

But the plaintiff may enter *nolle proſequi* for the 10

Pounds, and ſo have execution preſently for the 30 Pounds.

If a man bind himſelf, his executors are bound though they are not named; but it is not ſo of an heir.

If an Uſurer ſhall take ſo much uſe as ſhall exceed after the rate of 6 pounds, for the uſe of one hundred pounds for one year, and ſo after that rate for a greater or leſſer ſum, or for a ſhorter or longer time: when the *Obligee* puts the Bond in ſuit and declares, the defendant may plead the Statute of Uſury made *Anno* 12 *Caroli* 2.

Then the Plaintiff muſt reply, that this Debt is a juſt Debt, *abſque hoc quod corrupte agreatum fuit, inter quer. & def. contra formam Statuti.*

To which the defendant may rejoyn, *ut prius dic. quod corrupte agreatum fuit inter quer. & def. contra formam Statuti. Et de hoc ponit ſe ſuper patriam, &c.*

Iſſue being thus joyned, if the defendant upon tryal prove that there was ſuch a corrupt agreement, the Bond ſhall be void, and the defendant acquitted of the debt.

So if a Leaſe be made meerly upon the loan of money, if the conſideration come to above 6 pounds *per centum*, this comes within the Statute, and the Leaſe is void.

If a man ſign and ſeal to a bond or bill, and do not deliver it as his act and deed, this is not enough, for the main point is the delivery; which the plaintiff muſt always prove upon the tryal of any Deed whatſoever.

A Sheriff ſues his Bail-bond for non appearance:

The defendant pleads *Comparuit ad diem.*

The plaintiff replies *nul. tiel. Record comparencie:* And the defendant rejoyns *quod habetur tale Recordum:* Now the proof lies on the defendants part to produce the Record in Court.

By

By the Statute of limitations of actions of the 21 *Jac.* all actions on the Case and others, unleſs for words; all actions of accompt, Treſpaſs, Debt, Detinue, and Replevin of Goods and Chattels, theſe actions muſt be commenced within 6 years after cauſe of action; and all actions of aſſault and battery, and imprisonment, are to be brought within 4 years after cause of action; and actions on the Case for ſcandalous words within 2 years after the words ſpoken: and if any of theſe actions be brought after the time limited, the ſaid Statute is a good plea in bar to any of them.

But for Specialties, as Bonds, Bills, Indentures, *&c* there is no time-limited for them, but you may ſue them when you will.

An action of debt lies againſt a Pariſhioner at the ſuit of the Parſon, for not ſetting out of Tythes, by the Statute of the ſecond year of *Ed.6. cap.* 13. wherein the Parſon ſhall recover treble damages, that is, treble the value of the Tythes ſo carried away.

If a man arreſt another, or cauſe him to be arreſted in another mans name without his conſent, an action of debt upon the Statute lies, 8 *Eliz. cap.* 2.

If a man have a judgment againſt one at the Common Law, and have ſued out divers executions thereupon, and been at much charges, and nothing done; ſo that perhaps he hath been at more charges then the coſts upon the execution comes unto; he may arreſt the defendant upon a mean proceſs, and declare in an action of debt upon the former judgment; to which the defendant can plead nothing but *nul tiel Record*: And then if the plaintiff prove by the Record, that he had ſuch a judgment unſatisfied, he ſhall recover upon this action, and have coſts taxed the ſecond time.

A releaſe made by Executors before probate of the Will, is good; but the Executors cannot ſue an acti-

on for the debts of the Teſtator before probate of the Will: But an adminiſtrator cannot releaſe before letters of adminiſtration committed unto him.

SECT. XIV.

Actions of Detinue.

WHen one delivers goods or chattels to another to keep, and he will not re-deliver them again upon demand, a Writ of Detinue lies againſt him.

Detinue ought always to be of a thing in certain, as for a Horſe, a Cow, or Money in a bag ſealed, or cheſt locked, or ſuch a certain thing; becauſe the plaintiff ſhall recover the thing detained *in Specie*; and therefore it muſt be ſo certain that it may be known: and therefore a Writ of Detinue lies not for money out of a bag, or corn out of a ſack; for if a man delivers money unto another, he cannot have an action of Detinue for it, but an action of accompt.

A man may have an action of Detinue for the evidences of his land, if they be in a box or bag ſealed up.

A man may wage his Law to an action of Detinue; yet if a man brings his action of Detinue for his evidences in a bag ſealed, and declare for one evidence in ſpecial, the defendant in this caſe ſhall not wage his Law.

To an action of Detinue the defendant may plead *quod non detinet, & de hoc ponet ſe ſuper patriam*, &c.

In an action of Detinue the plaintiff recovers the thing detained, or the value thereof.

When a man recovers a Detinue, then there goes forth a *diſtringas* againſt the defendant, to deliver the thing recovered, in this form, *Ad*

Ad reddend. prefat. quer. vaccam pred. quam idem quer. in Curia noſtra coram Juſtic. noſtris apud Weſt. recuperavit verſum eum, vel 80 s. pro valore ejuſdem vacc. eidem quer. in eadem curia adjudicat. unde convict. eſt. Precipimus etiam tibi, &c. ad ſatisfaciend. prefat. quer. de 6 l. 7 s. que eidem quer. in eadem curia noſtra adjudicat fuerunt pro dampnis ſuis que habuit occaſione detentionis vacc. pred. unde convicta. eſt: & habeas, &c.

Obſerve in drawing your Declarations, that in Debt, Covenant, Account, Annuitie, Detinue and Replevin; you muſt ſay, The defendant *ſum. fuit ad reſpondend.* &c. And in action upon the Caſe, Treſpaſs, Trover, *Ejectionis Firme*, you muſt ſay, *Attach. fuit ad reſpondend.* and not *ſum fuit*, &c.

SECT. XV.

Of ſuing forth Execution.

WHen there is Judgement obtained againſt any one for debt or damages, by *nihil dicit* or by verdict, the Law gives unto the plaintiff his choice of three ſeveral ſorts of executions. 1. *A Capias ad ſatisfaciend.* againſt the defendants body. 2. *A Fieri facias* againſt his goods. And 3. An *Elegit* againſt his lands.

Any one of theſe three ſeveral executions the plaintiff may have at his election; but you can take out but one at a time: ſo that when you have taken forth a *Fieri facias* againſt his goods, you cannot have a *Cap. ad ſatisfaciend.* againſt his body, till the return of the *Fi. fa.* be paſt; and if you take a *Ca. ſa.* againſt

gainſt the body, you cannot have a *Fi. Fa.* againſt the goods, till the return of the execution againſt the body be out.

If a man be in priſon upon an execution at my ſuit, I cannot now have any *Fieri facias*, or meddle with his goods.

Upon a judgement againſt an executor or adminiſtrator, the plaintiff cannot have a *Cap. ad ſatisfaciend.* againſt the body, but a *Fieri facias de bonis Teſtatoris.* And if the Sheriff do return a *devaſtavit*; that is, that the executor or adminiſtrator hath waſted, or made away the goods of the *Teſtator*; then a *Ca. Sa.* lies againſt the body of the executor or adminiſtrator, or a *Fi. fa.* againſt their goods.

If a man have a judgement againſt an executor or adminiſtrator, in caſe the executor or adminiſtrator plead *plene Adminiſtravit*, execution ſhall go forth to levie the debt and damages, *de bonis & Catallis* which were of the Inteſtate at the time of his death, in the hands of *I. D.* adminiſtrator of the goods and chattels which were of the Inteſtate, if the ſaid adminiſtrator have ſo much goods and chattels which were of the ſaid Inteſtate at the time of his death in his hands to be adminiſtred; and if he hath not, then the damages aforeſaid to be levyed of the proper goods and chattels of the ſaid adminiſtrator. If there be two executors, and the Sheriff return a *devaſtavit* againſt one, and he dies, the other ſhall not be charged for that *devaſtavit*; for the one ſhall not prejudice the other: but a gift by one of them, or a ſurrender by one of them, is good againſt the other.

If a man be in priſon upon an execution, and the plaintiff releaſe all debts, by this is the defendant diſcharged of the execution: but if the plaintiff ſhall releaſe all actions, here he is not diſcharged.

If

If you take out a *Fieri facias* againſt one, and he hath not goods ſufficient to ſatisfie it; the Sheriff may levie what he hath in part, and the plaintiff may have another *Fieri facias* for another part, ſo ſoon as he can finde more goods; and ſo may have one *Fi. fa.* after another, till he be fully ſatisfied: and when the Sheriff hath levyed the goods, they muſt be appraiſed by men indifferent; and then the Sheriff may ſell them, and give the money to the plaintiff

But if the Sheriff, when he hath levyed the goods will not ſell them, but keep them in his hands; then the plaintiff may ſue forth a Writ, called a *Venditioni exponas*, whereby the Sheriff is compelled to ſell the goods; and the money which he hath for them, he is to give to the plaintiff, according to the Tenor of the Writ.

If a Judgement be had againſt a Parſon, you may have a *Fieri facias* againſt his goods: and if the Sheriff do return that the ſaid defendant is a Clerk, and Beneficed at L. in the Dioceſs of S. having neither goods, nor chattels, nor *Laical* Fee in his Bailiwick, whereof the ſaid debt or any penny thereof can be levyed; upon this return a *Fieri facias de bonis Eccleſiaſticis* ſhall go forth, by virtue whereof his Tythes ſhall be ſequeſtred: which Writ of *Fieri facias* is directed to the Biſhop in whoſe Dioceſs he is Parſon.

Elegit is the third ſort of execution, which doth extend to a moiety of all the defendants lands, and alſo all his goods and chattels, *Preter Boves & affros de Caruca ſua*; and the plaintiff ſhall hold half of theſe lands, till the debt and damages be fully levyed and ſatisfied; and while the plaintiff ſo holds theſe lands, he is Tenant by *Elegit*, during which Tenure he muſt do no waſte.

In the execution of a Writ of *Elegit*, the Sheriff

is

is to ſummon in a Jury, which ſhall finde the defendants lands; and half of his lands ſo found, the Sheriff is to deliver *ſeiſin* of unto the plaintiff to hold till his debt and damages be ſatisfied.

If a man ſhall ſell his lands, and there be a Judgement obtained againſt him before, this Land (whoſoever hath it) is liable to an *Elegit* to ſatisfie that Judgement; and to that purpoſe, there ſhall go forth a *Scire facias* againſt the *Terre tenentes* before the execution.

But if there be Judgement againſt a man, and he ſells his goods before execution; theſe goods are not liable to a *Fieri facias*.

Obſerve that if an *Elegit* be once gone out, and lands found and returned, and entred and filed, you ſhall never take forth any other execution, nor another *Elegit*.

Note likewiſe, That if two Writs of *Elegit* be delivered unto the Sheriff at one time, againſt the lands of one defendant; the Sheriff is to extend the Moyety of all the lands, and ſhall give that Moyety to the more *ancient debt*, and then he ought to extend a moyety of the defendants remaining moyety, and deliver it to the other plaintiff; for he ought not to deliver half the land to one, and the other half unto the other: for by this means the defendant ſhould have nothing left; but here he will have a quarter part. A man may have ſeveral *Elegits* into ſeveral Counties where the Land lies, and may extend an *Annuity* and *Rents*.

If a man dye, having divers Judgements againſt him, his Heir being within age, no Writ ſhall iſſue againſt his lands during his *Minority*.

All Writs of execution are to be ſued out within a year and a day after Judgement, or elſe the plaintiff muſt ſue out a *Scire facias*; and upon a *nihil* returned there-

thereupon, a ſecond *Scire facias*; and *nihil* being returned thereupon likewiſe, the plaintiff may take out what execution he pleaſes, but if the Sheriff return *Scire feci*, at the return of it the defendant may appear and plead unto it; but if he appear not at the *Scire feci* returned, execution goes out againſt him.

In the Court of Common Pleas onely there is a Proces to the Outlawry after Judgement; ſo that if you cannot take a man upon an execution, you may Outlaw him after Judgement, and by virtue thereof ſeize his goods and lands.

The way to ſue to Outlawry after Judgement, is to get a *Cap. ad ſatisfacierd.* returned by the Sheriff *non eſt Invent.* and carry that Writ ſo returned to the Exigenter for that County, who will upon it make an Exigent and Proclamation; to which the defendant cannot appear, nor no way reverſe or ſuperſede, without payment of the debt, or ſome other way agreeing with the Plaintiff.

SECT. XVI.

Actions upon the Caſe.

THe Variety of theſe kinde of actions, are almoſt as infinite as they are numerous, daily increaſing, and continually receiving new forms, according to the growing deceits and fraudulent inventions of wicked men: As in theſe Caſes following.

An Action of the Caſe lies,

Where one becomes ſurety for another at his Inſtance and requeſt upon a Bond, and he ſaveth him not

not harmleſs, but the ſurety is inforced to pay the money: in this caſe the ſurety may bring his action upon the caſe againſt the principal, wherein he muſt ſet forth how ſuch a time, at ſuch a place, at the inſtance and requeſt of the defendant, he became bound to ſuch a one in ſuch a ſum, conditioned for the payment of ſuch a ſum at a day then to come, and that the defendant in conſideration thereof did aſſume and promiſe to ſave him harmleſs; and that notwithſtanding the promiſe aforeſaid, he hath been ſued by the *Obligee*; and ſhew how, and where, and what he is dampnified.

An action of the Caſe lies where a bargain or contract is made between two by word of mouth, either for the delivery of corn, cattle, or any goods, wares or merchandiſe whatſoever; and the party that ſo promiſes to deliver it performs it not.

An action of the Caſe lies alſo for mony borrowed, as well as a *Mutuatis*; and here the defendant cannot wage his Law.

It lies for money promiſed in conſideration of Marriage, wherein the plaintiff muſt aver that he married the wife at ſuch a time.

An action of the Caſe lies for the hire of a Horſe, which is returned back, and the hire unpaid.

It lies likewiſe where a man doth abuſe a horſe by immoderate riding, or otherwiſe miſuſeth him.

Likewiſe if a man hire a horſe, if he have given earneſt for the Horſe, and that it be promiſed him, it ſhall be delivered unto him by ſuch a time, and then the owner refuſeth to deliver him, whereby he is diſappointed of him; here lies an action upon the Caſe againſt him that let the horſe.

Caſe lies alſo for a maſter againſt his ſervant, for leaving of his ſervice before the time contracted for be expired.

It

It lies alſo for a ſervant againſt his maſter, if he ſhall without juſt cauſe turn him out of his ſervice before his time be expired.

It lies for a mutual contract made between two perſons by word of mouth; and to binde the ſame, a piece of money is given by the one to the other in earneſt: now if either will not perform what is agreed upon, the other may bring his action upon the Caſe againſt him that makes the breach.

Caſe lies alſo where a man upon ſale of Sheep warrants them ſound, and they prove rotten, or otherwiſe unſound.

So an action of the Caſe lies where one ſells a Horſe and warrants him ſound, and the Horſe proves to be unſound at the time of the ſelling of him.

An action of the Caſe lies, if a man ſell unto another any other Cattle, or any goods and Merchandiſe, warranting the ſame ſound and good at the time of the ſale, and it proves otherwiſe.

If a man ſell unto another a Hogſhead or ſeveral Hogſheads of Tobacco, ſhewing him a ſample of it, and promiſes it ſhall be all as good as that ſample, and delivers Tobacco which proves not ſo good; here an action of the Caſe lies againſt the ſeller of it; and ſo it lies in any other kinde of commodity whatſoever.

It lies againſt a Butcher for ſelling corrupt, or unſound, or putrified meat.

It lies againſt a Smith or Farryer, who Shooes a Horſe and pricks him, whereby he growes lame.

It lies againſt a Gaoler, for letting a priſoner at large, as well as an action of Eſcape.

Where a man hath diſtreyned Cattle, and is driving them unto the Pound, and another comes

comes and reſcues them; here an action of the Caſe lies.

It lies againſt any one that ſhall intice away a mans Covenant-ſervant from him.

An action of the Caſe lies againſt an Inne keeper, if a man bring goods into his Inne and they be loſt. If a man deliver goods unto a Carryer, and agree with him upon a rate for the carrying of them, and they are loſt or miſcarried, an action of the Caſe lies againſt the Carryer.

An action of the Caſe lies for ſtopping of a Water-courſe through another mans ground, whereby the Plaintiff warred his Beaſts and did other neceſſaries; and if this be ſtopped by Stones, Turffs, or otherwiſe the courſe diverted, an action of the Caſe lies.

An action of the Caſe lies alſo for ſtopping up of a way, whether it be a Cart-way or Foot-way; and another hath right to that way, and can preſcribe to it.

Where a man is to pay money, and gives a Bill of Exchange which is not accepted, but comes to be proteſted againſt; an action of the Caſe lies againſt him that gives the Bill of Exchange.

Where a man ſells Cattle, Goods or Merchandiſes, and warrants them to be his own, and they prove afterwards to be another mans; an action of the Caſe lies againſt him for it.

An action of the Caſe lies againſt a Taylor for ſpoyling of a mans Cloath or Stuff, if he undertakes to make Cloathes and ſpoils them, ſo that they are not uſeful for the party they are made for.

Caſe lies againſt an Executor upon the promiſe of the Teſtator, provided there be a valuable conſideration to ground the promiſe upon.

It

It lies in the behalf of a commoner againſt any that hinder him from the uſe of his common.

An action of the caſe lies, where a man hath an office granted unto him, and another diſturbs him, either in the execution of his place, or elſe receives the profits due unto his office.

It lies alſo againſt a cheating Gameſter, for playing with falſe Dice.

An action of the caſe lies where a man diſturbs the keeping of a court-leet.

It lies againſt an Under-ſheriff, for an ill or falſe Return of a Writ.

And it lies againſt an Under-ſheriff who makes Return of writs within any Liberty or Franchiſe granted to another, who ought to have the execution and the Return of thoſe Writs.

It lies on the behalf of a Phyſitian or Chirurgion for phyſick, or performing a cure, if the Patient refuſe to pay him.

An action of the caſe lies, where a man builds a houſe ſo neer his neighbours, or raiſes any ſhed or other out-houſe, or lays piles of wood, or ſtacks of hay or corn ſo neer his neighbours windows, as that they ſtop up his light.

An action of the caſe lies likewiſe for any other nuſance, whereby a man is any ways damnified; as where a man builds a ſtable or privy-houſe ſo neer his neighbours houſe, that the ſmell thereof annoys him.

Alſo if a man ſets up a kilne, to burn bricks or lime, ſo neer a mans dwelling houſe, that the ſmoke or ſmell thereof annoys him, or ſo neer his Orchard, or Nurſery, as that the ſmoke thereof ſpoils his fruit-trees, an action of the caſe lies for it.

It lies againſt an Under-ſheriff for taking of greater Fees then the Statute appoints.

It lies againſt one who ſhall break down a mans wall or ſluce, whereby his land comes to be drowned.

An action of the caſe lies alſo for ſelling of adulterated or corrupt wine, without warranting it to be good, becauſe it is prohibited by Law.

It lies where a man hath pawned his goods, and renders the money due, and demands his goods, and it will not be accepted.

An action of the caſe lies for negligent keeping of fire, whereby a mans houſe who is a neighbour, or his goods come to be burned, either in part or in whole.

An action of the caſe lies for digging of lime-pits where there were none formerly.

If a man keeps a dog that bites ſheep, he whoſe ſheep are bitten or worried may have an action of the caſe againſt him that keeps ſuch a dog.

A Sollicitor may bring his action of the caſe for his time, expences and diſburſements in following his Clyents buſineſs.

It lies, where a man for money lent upon forbearance promiſes to become ſecurity.

It lies upon a promiſe to pay money for Land contracted for.

It lies againſt any one that makes an arreſt in a Liberty, not being bailiff of that Liberty.

It lies for the Lord of a Mannor in ancient Demeaſne, againſt a Tenant that levies a Fine above in the common pleas.

It lies in the nature of an action of conſpiracy, for one indicted of Felony, and afterwards acquitted.

Caſe lies againſt a Steward of a court for not taking ſecurity in a Replevin.

An action of the caſe lies againſt the husband and wife, for meat, drink, cloaths, lodging, &c. had by the wife before the inter-marriage.

It

It lies for a Keeper of a Prison, for meat and drink had by a Prisoner.

It lies against an attorney or Clerk of the Kings Bench for appearing or filing a Bail without a warrant.

An action of the Case lies also against an attorney that shall do any act in any mans name, whereby the party is prejudiced in relation to the Law, without warrant for so doing.

It lies for erroneous prosecuting a Writ of Execution.

An action of the Case lies also against Bailiffs, Sergeants, and any Officers who take mony by extortion: *So that I doubt it lies against all the Gaolers, Undersheriffs, Bailiffs, Sergeants, and Catchpoles in* England.

It lies for a Rescue made upon a *Capias*, or any other Process whatsoever.

It lies against a Sheriff for not returning a *venditione exponas*.

It lies also on the behalf of an Executor against an Under-sheriff, for returning falsely a *devastavit*.

If a man sells cloths or stuffs, and warrants them to be of such a length: if they hold not out accordingly, he which buys them may bring his action upon the case.

If one takes a mans Cattle, and another takes them from him, an action of the Case lies, by way of Trover and Conversion, for the Cattle.

An action of the Case lies against a Tenant at Will, who commits waste by burning of houses, or pulling them down, or the like; but an action of waste lies not against him.

An action of the Case lies against a Bailiff for killing or spoiling any of his Masters Cattle.

An action of the Case lies, where a man delivers to another his sheep to dung his land, or his oxen to plow his land, and he killeth them.

An action of the case lies against a Sheriff, where the Plaintiff hath a charter of Exception, that he shall not be impanelled upon any Jury, and shews that to the Sheriff, and yet he impanells him.

Likewise if the Sheriff, upon a Replevin or Writ of second deliverance to the plaintiff of the distress, will not return the Writ, so that the defendant may constrain the plaintiff to come and declare, so that he may avow, the defendant may have his remedy by action of the case against the Sheriff.

Where a Guardian pleads falsly for an Infant, or vouches one who is not sufficient to render in value to the Infant, the Infant shall have an action of the case against the Guardian.

An action of the case lies against a Chirurgion who undertakes to cure a man of a wound, and neglects it, whereby a man grows worse, and makes it through his negligence to become incurable.

An action of the case lies, where a man promises in consideration of a sum of money in hand paid, to enfeoffe another in such and such Lands by a certain day then to come, and he doth it not.

Actions of the case for speaking of scandalous words are likewise innumerable, according as venemous tongues are tinctured; every day almost producing some new one or other.

But in actions of the case for words, you must carefully observe what the nature of the words are, and what they import; the manner of the speaking of them; and what the Plaintiff may be damnified by the speaking of them; what his Credit was, and how it is hurt or impaired: and take the whole words as neer as you can; and before you bring your action, let the witnesses set down the words as they were spoken, and as they will prove them, and the time & place, when and where they were spoken, and before whom they were spoken.

This

This action of the case for words oftentimes doth miscarry, being brought for words that have not weight enough to bear action; and many times the subsequent words qualifie the sense of the former: as,

For a man to say of another, He is a Thief, he hath stollen my corn;

This will not bear an action; for the latter words qualifie the former: because it shall be understood of corn growing, which is part of the Freehold, and cannot be stollen; for it is but a Trespass: and take this for a general Rule, That in all actions for words, where the words will bear a double construction, the Law will always take them in the best sense for him that spoke them.

So likewise it is to say of one, He is a Thief, he hath stollen my apples or my trees; it shall be understood of apples growing, and trees growing, which is not felony to steal, and so not actionable

To call a Physitian a Mountebank will bear an action; and so it will to call a Merchant a Bank rupt.

For words spoken by the wife, an action of the Case lies against the husband and the wife; but if the wife be arrested and not the husband, you cannot declare.

To call a man a Bastard, if he be the eldest son, and in a capacity at the time of the words spoken to inherit an estate after his Father, and be disinherited, an action lies.

To call a Maid Whore, or to say she hath a bastard, whereby she loseth her preferment in marriage, is actionable.

To call a married wife Whore, will not bear an action at the Common Law; but it is punishable in *Court-Christian*: and in the City of *London*, to call a Citizens wife whore is actionable in their Courts, by the custom of the City, where many a well-headed

Citizen oftentimes to clear his wives innocency appears a cuckold upon Record.

If a man ſpeak ſcandalous words of any, for which an action is brought againſt him; if the defendant be able to make proof of the matter for which he ſpoke the words, he may plead a ſpecial Juſtification; but if he plead ſuch a plea, and make it not good, it will much aggravate the damages againſt him

Trin.16. Car. in B.C. C. and his wife brought an action for ſcandalous words againſt I. H. and M. his wife, for words ſpoken by the defendants wife againſt the wife of the plaintiff; the words were theſe; *Thou art a Bawd; thou art the Bawd of Bawds, thou keepeſt a Bawdy-houſe, and art a Bawd to thy own Daughter.* The plaintiff declared, that he keeping a publick Victualling-houſe loſt his cuſtom: at the Tryal a verdict and 5 *l.* damages paſſed for the plaintiffs: The defendants moved in arreſt of judgement, and it was held by the whole court, that the words were not actionable, for that the words were ſpoken of the defendants wife, who kept no houſe at all, but her husband; and therefore it was agreed, it could be no damage to him; and judgement was arreſted.

Thus you ſee how dubious actions for words are: indeed they are all vexations, the effects of paſſion and hot blood; and are ſeldom ſlanderous, becauſe they are for the moſt part true: The courts do not countenance them, and I think wiſe men will not trouble themſelves with them upon frivolous accounts.

SECT

SECT. XVII.

Assault and Battery.

WHere a man assaults another, and strikes, kicks, beats, or does him any manner of violence either with hand or foot, or with any weapon, or throw any thing at him or upon him, or do him any hurt; here an action of assault and Battery lies.

The original in assault you have in the beginning of the *Sollicitor in the Common Pleas*; it runs usually, *Quare vi & armis in ipsum quer. apud H. insultum fecit, & ipsum verberavit, vulneravit, & male tractavit, ita quod de vita ejus desperabatur, & alia enormia ei intulit, ad grave damnum ipsius quer. & contra pacem*, &c.

Sometimes there is assault and Battery, and false Imprisonment together; and then in the Writ after *vulneravit*, you must adde *imprisonavit*, in case the plaintiff were kept in prison, that is, any way restrained of his liberty, kept or detained in any place against his will: this is in the law false imprisonment.

And in this you must name in your declaration for what time the plaintiff was imprisoned, thus: *Et ipsum quer. sic in prisona diu, videlicet, per spatium trium horarum* (more or less as your case requires) *detinuit.*

The general issue or plea to this action is, *Non cul.* Not guilty; but there are several other pleas in justification of a mans self; as where it is done in defence of a mans person or goods: also a man may justifie in the defence of the person of his wife, father, mother, or master: but if it be not in any of these cases, or in the maintenance of Justice, if the defendant

be not constrained unto it by a necessary cause, he is punishable if he beat another.

If a man come into another mans house against his will, and there offer violence either to his wife, children, servants, or to any of his goods, he may lawfully thrust him away to hinder him; and if he bring an action, in such like case the defendant may plead specially as the case was, and conclude, that to hinder him, or put him out of doors, *molliter manus imposuit, &c.* he did gently lay his hands upon him.

Where a man for preservation of the peace goeth about to part a fray, by holding either of the parties from striking; if the party that was so holden do bring an action of Battery, the defendant ought to plead specially, that to preserve the person of one from killing or wounding, and for preservation of the peace, he did come in aid unto him, *& molliter imposuit manus* upon the plaintiff.

To this the plaintiff may reply, that the defendant made the assault *injuria sua propria*, of his own proper injury, without any such cause; and then the defendant must maintain his plea with an (*ut prius dicit*) *Et de hoc ponit se super patriam*, and of this he puts himself upon the Country, *&c.*

There is likewise a plea in Assault and Battery called *son assault demesne*, which is, when a man justifies that the plaintiff struck the first blow, and he struck in his own defence: This is a very usual plea, and proves very often on the defendants side.

SECT

SECT. XVIII.

Actions of Treſpaſs.

THeſe are the moſt general actions next to Debt and actions upon the Caſe, that are brought, or indeed that happen; and theſe vary in the original Writ and Declaration, according as the Treſpaſs is, and the cauſe of action thereby occaſioned.

An action of Treſpaſs may be brought for breaking the Cloſe, without adding any manner of other Treſpaſs: This is a common *Clauſum fregit.*

Sometimes it is brought, *Quare domum & clauſum fregit*, for breaking both houſe and cloſe; and ſometimes, eſpecially in *London*, *Quare domum fregit*, for breaking of the houſe onely.

You may lay an action of Treſpaſs for ſeveral treſpaſſes at ſeveral days; or one treſpaſs with a *Continuando*, that is, continuing of it for ſome certain days and weeks from the time laid in the Declaration.

It lies for chaſing of Cattle, whereby they either dyed, or were bitten or worried with Dogs.

It lies for taking away of pales, poſts, rails, breaking of hedges or fences.

It lies for digging in a leaden Myne, and taking away the Ore; or for breaking the ground, and digging there.

An action of Treſpaſs lies for breaking another mans Dove-houſe, and taking away Pigeons.

An action of Treſpaſs lies for driving Horſes, or drawing a Cart over another mans ground, where no way can be preſcribed for.

It

It lies for Fiſhing in another mans Pond, and for breaking the Pond and letting out the Water.

For Chaſing or Hunting in a ſree Warren, an action of Treſpaſs lies.

An action of Treſpaſs alſo lies for breaking of a Cloſe, mowing of Graſs, cutting Corn or Trees, or eating of Corn or Graſs with Cattle.

It lies for Treſpaſs done in a Garden, plucking up of *Sage*, *Rue*, *Roſemary*, *Lavender*, or other Herbs or Flowers.

It lies in the behalf of a Parſon, againſt any that hinder or oppoſe him in the carrying away of his *Tythes*.

It lies for taking away Hay in Cocks, and Corn in Sheaves; and (as ſome hold) for impounding a Horſe or other Cattle, and not giving them meat in the Pound. *It is probable in ſome Caſes an Action may lie for this, but I am ſure in all it doth not: for if a Landlord impound Cattle which he hath diſtreyned for Rent, he is not bound to feed them; but if they be ſtarved and dye in the Pound, it's the Tenants loſs.*

It lies for taking away of Horſes or any other cattle, wherein you ſay, *Talis pretii*, &c. or if Goods or Chattels, then *ad valenciam*, &c.

An action of Treſpaſs lies for breaking of Doors, Windows, or any part of a Houſe.

Where one hath right to a Toll in a Market, and imploys his ſervant to gather it, and he is diſturbed in it; here an action of Treſpaſs lies againſt the diſturber.

It is the ſame Caſe where a man hath right to keep a Fair, and is hindred or diſturbed in it.

So where one hath Execution and return of Writs in a Liberty or Hundred, and is hindred or diſturbed in it; he hath amends by action of Treſpaſs againſt the diſturbers.

An

An action of Treſpaſs alſo lies where a man hath right to keep a *Court-Baron*, and is any way diſturbed in it.

It lies alſo for digging in a mans Coal-mynes, and carrying away Coals, and for digging in a mans *Quarries*.

The general plea to actions of Treſpaſs is, *Not guilty*; yet there is variety of ſpecial pleadings by way of *Juſtification* or otherwiſe, but moſt uſually that is after the Common Bar hath been pleaded in an action of Treſpaſs, and that there be a new aſſignment of the place; then they plead as to the Treſpaſs in the place of a new aſſignment, either in juſtification for a Foot-way or a Cart-way, or ſome other ſpecial plea, *&c.* or Not guilty to the new aſſignment. This new aſſignment is uſed very oft to clear a Title, which upon it comes in queſtion; and here if the Title appear to be the Plaintiffs, he ſhall recover damages.

If a Plaintiff recover in an action of Treſpaſs, it brings him onely damages, and not recovery of any Poſſeſſion, as in the Caſe of an *Ejectione Firme*.

SECT. XIX.

Ejectione Firme.

THis is the moſt uſual action now adays for the tryal of a Title, and comes in place of many real actions, as *Formedon*, &c. which were very tedious, difficult and chargeable.

This lies where a man makes a Leaſe to another of Land

Lands, Houſes, *&c.* and ſeals and delivers it upon the premiſes, and leaves the Leſſee in Poſſeſſion, and afterwards the Leſſee is outed by the enemy of a Stranger; here the Leſſee ſhall bring his *Ejectione Firme*.

And in bringing this action he muſt have recourſe unto his Leaſe, both for the thing demiſed, and for the Terms, and the Date of the Demiſe, and the place preciſely where the land lies: but thoſe only are to be mentioned in the Declaration, but not in the Writ.

You muſt be ſure your Original bear Teſt after the Entry of the Ejector.

The form of the Original in *Ejectione Firme* you have, *Chap.* 11. *Sect.* 3. *pag* 92.

In this action is recovered the Poſſeſſion of the Houſe or Land demiſed, and that by an Execution of *Habere facias poſſeſſionem*, which is awarded upon the Judgement-roll, and alſo damages; and there iſſues beſides the Writ of *Habere facias poſſeſſionem*, a *Capias ad ſatisfaciend.* againſt the body for the damages, or a *Fieri facias* againſt the goods.

It is the uſual courſe now in Ejectments to feign a Leaſe of Ejectment, and an Ejector, and draw a Declaration againſt the feigned Ejector, and ſend a Copy thereof to the Tenant in Poſſeſſion, giving him notice to appear and defend his Title, or elſe the Ejector will confeſs or ſuffer Judgement by default; and thereby the Tenant will be evicted out of poſſeſſion.

To this the Tenant may appear by his attorney, and conſent to a Rule with the plaintiffs attorney, to make himſelf defendant in the room of the caſual *Ejector*, and to confeſs Leaſe, *Entry* and *Outer*, and at the tryal to ſtand upon the Title onely, or in default hereof Judgement to be entred againſt the caſual Ejector.

If

If the Tenant in poſſeſſion do not appear in due time after the Declaration left with him, and enter into a Rule as is aforeſaid; then upon *Affidavit* made of the ſervice thereof, and notice given him to appear; upon Motion the Court will order judgment to be entred againſt the caſual Ejector.

SECT. XIII.

Actions of Covenant.

THis action lies where an agreement or Contract is by Deed, articles or other writing ſealed between two perſons, where every of them is bound to the other, to perform certain covenants for his part; and if the one of them holdeth not his Covenant, but breaketh it, then he which findeth himſelf agrieved may have thereupon a Writ of Covenant: and Covenants are either in Law or fact.

A Covenant in Law is that which the Law doth intend to be done, athough it be not in words expreſſed; as if a man demiſe Houſe or Lands, or any thing to another for a certain term; here the Law intendeth a Covenant of the part of the *Leſſor*, That the Leſſee ſhall hold all his Term againſt all lawful Incumbrances.

Covenant in fact is that which is expreſly agreed upon by the parties.

*A*lſo there is a Covenant meerly perſonal, and real Covenant.

Real Covenant is where a man tyeth himſelf to paſs a real thing, as Lands or Tenements; as where a man covenants to levie a Fine of Lands, *&c.*

Cove-

Covenant meerly perſonal, is where a man covenants with another by Deed to build a Houſe, or do ſuch or ſuch an act, or to ſerve him, *&c.*

Where a perſonal Covenant is made to any, and the *Covenantee* dyes, the Covenant being unperformed; here his Executor ſhall maintain an action of Covenant.

The Heir ſhall likewiſe maintain an action of Covenant, where one had covenanted by writing with his Father to enfeoffe him in certain Land, and doth it not.

In this action the Plaintiff recovers damages aſſeſſed by the Jury, for what he is damaged by the breach of Covenant, beſides coſt.

An *Adminiſtrator* may have an action of Covenant as well as an *Executor*; and the VVrit of Covenant ought to be brought in the County where the Deed is made; but if it be brought in another County then where the Deed was made, the Defendant ſhall not have a plea in Bar to the VVrit, unleſs that the Deed bear date in another County.

A Writ of Covenant lies alſo againſt Pledges, who become Sureties that another man ſhall perform a Covenant.

The Aſſignee of the Leſſee ſhall maintain an action of Covenant againſt the Leſſor, although he be not ſpecified in the ſaid Deed of Covenant to be an aſſignee.

There may be one or more breaches of Covenant aſſigned, as the Caſe may require.

But in an action of Debt upon a Bond for the performance of Covenants, you can aſſign but one breach.

SECT.

SECT. XXI.

Actions of Trover *and Converſion.*

THis action lies where another man comes by goods by finding or otherwiſe; if he refuſe to deliver them unto the owner upon demand, he may bring his action of *Trover*, and ſhall thereupon recover as much damages as the Goods be worth; for you recover not the thing detained, as in an action of *Detinue*, but damages to the value.

The Plaintiff in Trover, before he bring his action, muſt firſt make a demand of the Goods detained.

And if the Defendant to an action of Trover plead *non eſt culpabilis*, the Plaintiff muſt prove his property in the Goods.

There are now adays more actions of Trover brought then actions of *Detinue*, becauſe the Defendant in this action cannot wage his Law, as in an action of Detinue he may.

If a man bring an action of Trover for a Horſe, or Cow, or the like; the Defendant may juſtifie it as a Stray, and may chuſe to deliver it, unleſs he be paid by the owner for his meat and keeping; which he muſt plead ſpecially.

In this action you may arreſt the party upon a common *Clauſum fregit*, and declare in *Trover*; or you may ſue the Defendant to an Outlawry: and if the ſeveral Proceſſes be laid ſpecially, the Defendant is to appear and anſwer the ſame Term the *Exigent* is returnable, otherwiſe he may impail.

Upon any perſonal action, as *Debt*, *Detinue*, *Caſe*, *Treſpaſs*,

Treſpaſs, Trover, or the like, if you cannot eaſily get the defendant arreſted, you may ſue him to the Outlawry.

If I finde my Goods in another mans cuſtody, I may bring my action of Trover againſt him for them: Now if he bought them in an open Market, or in any Fair, and they be tolled in the book, as the manner is, this alters the property, and the Goods I can never recover; and this the defendant muſt plead ſpecially: But if he bought them privately any where but in an open Market or Fair, by this the property is not altered, and I may recover them by action of Trover.

So if my Plate be ſtollen, and I finde it in another mans cuſtody; if he bought it privately, and not in a Goldſmiths Shop, or if he bought it at any other but a Goldſmiths Shop, the property is not altered; and I may recover the value of my Goods in damages by action of Trover.

SECT. XXII.

Of Dower.

Dower in the Common Law is taken for that Portion which the Widow hath for term of her life, of the Lands or Tenements of her Husband: it is called *Dower* or *Dowry*, as a gift, becauſe the Law it ſelf doth (without any gift of the Husband himſelf) give it her; It is commonly taken for the third part, which ſhe hath of her Husbands Lands after his deceaſe.

To the conſummation or perfection of this Dower, three things are neceſſary; Marriage, Seiſin, and the death of the Husband.

This

This proviſion the Law hath made for a Widow, where the Husband hath not aſſigned in his life-time part of his Lands to his VVife.

Dower by the Cuſtom of ſome places, as *Gavelkinde* in *Kent*, is to have the Husbands lands, but that is *Durante viduitate*, during her Widow hood: for if ſhe marry again ſhe loſes all.

The Writ of Dower lyes where a man is ſole ſeized of Lands or Tenements in Fee-ſimple or Fee tail, during the Coverture between him and his wife, where by poſſibility the Iſſue between them may inherit; if ſuch a man dye, his Wife ſhall recover the third part of all the Lands whereof the Husband was ſole-ſeized, any time during the Coverture, by a VVrit of Dower, though he dyed not ſeized, and although that he aliened the ſame lands in his life-time.

VVhere the Husband dyed ſeized, and the VViſe brings a VVrit of Dower and recovers, ſhe ſhall recover damages for the profits of the Land incurred from the time of the death of her Husband; but if there were any Eſtate or Alienation made of the Lands, *&c.* during the Coverture; ſo that the Husband dyed not ſeized; in that Caſe ſhe ſhall recover no damages for mean profits, although ſhe recover the Lands.

It is not material whether ſeiſin continue or not during the Coverture; for if the Husband be once ſeized it is ſufficient: although he aliene Lands or extinguiſh Rents, yet the VVoman ſhall have her Dower.

But it is abſolutely neceſſary that the Marriage do continue: for if that be diſſolved, the Dower is determined.

In Caſe of *Elopement*, which is where a woman leaves her Husband, and goes away with an *Adulterer*, & dwelleth with an *Adulterer* without voluntary re-

concilement to her Husband; she shall lose her Dower, according to the old verse:

A woman that her Husband leaves, and in Adultery leads her life;
If that he dye unreconcil'd, the Law endoweth no such Wife.

A woman shall not be endowed of a Common without number in Grass, nor of an Annuity, *&c.* nor of Rents, *&c* if the Free-hold of the Rents were suspended before the Coverture; but she shall be endowed of Tythes, of the third part of the profits of *Courts, Fines, Heriots, &c.*

She shall be endowed according to the value of the Land at the time of the assignment, and not according to the value as it was in the time of her Husband; whether the value of the Land by building or otherwise be improved, or whether it be impaired by the Heir.

If the Wife be past the age of nine years at the time of the death of her Husband, (although she were but four years old when she were Married) yet she shall be endowed.

If a Woman marry before she be of years to consent, which is twelve in a woman, and fourteen in a man; yet that imperfect Marriage (from which either of the parties at the age of consent may disagree) after the death of the Husband shall give Dower to the wife.

If the Heir put out the Widow within forty days after the death of her Husband, she shall have a Writ *de Quarentina habenda*, which is a Writ that the Law gives where a man dyes seized of a Mannor, Place, and other Lands, whereof the Wife ought to be endowed; there the woman may abide in the Mannor,

Place

Place or Houſe, and there live of the Stock and profits thereof for the ſpace of forty days, within which time her Dower is to be aſſigned. *Magna Charta, cap.* 6.

There needeth neither livery of ſeiſin nor writing to any aſſignment of Dower, becauſe it is due of common Right, and the aſſignment muſt be of ſome part of the Land, or of a Rent, *&c.* iſſuing out of the ſame.

The aſſignment muſt be certain and abſolute, and by ſuch as have Free-hold, or againſt whom a Writ of Dower lies.

Aſſignment of Dower muſt be either by the Sheriff by the Kings VVrit, or elſe by the Heir or other Tenant of the Land by conſent and agreement amongſt themſelves.

A Joynture was anciently no bar of Dower at the Common Law, but now it is by the *Stat.* 27 *H.* 8. if the Joynture be made to the Wife according to that Statute.

To the making of a perfect Joynture, theſe ſix things are required.

Firſt, it is to take effect for her life in poſſeſſion or profit, preſently after the deceaſe of her Husband.

Secondly, that it be for tearm of her own life, or greater Eſtate.

Thirdly, it muſt be made to her ſelf, and no other for her.

Fourthly, it muſt be made in lieu and ſatisfaction of her whole Dower, and not of part thereof.

Fifthly, it muſt either be expreſſed or averred to be in ſatisfaction of her Dower, *&c.*

Sixthly, it may be made either before or after Marriage.

If the Joynture be made before Marriage, the Wife cannot wave it and claim her Dower at the Common Law; but if it be made after the Marriage, she may wave the same.

A Joynture made to the Wife above or under the age of nine years is good.

The wife shall not be endowed of Lands which the husband holdeth joyntly with another at the time of his death, *&c.* because the Joynt-tenant who survives claimeth the Land by the Feofment, and by the survivorship, which is above the Title of Dower; but Tenants in Common have several Free-holds and Inheritances, and their Moyeties shall discend to their several Heirs; and therefore their Wives shall have their Dower thereof.

The leading Process in the prosecution of an action of Dower, is first a summons between the Teste and Return, whereof there is five Returns.

And if the Tenant do not appear nor essoyn, entring a *ne Recipiatur*, a *Grand cape* lyes to seize the Lands, *&c.*

But if the Tenant wage his Law of *Non summons*, he shall save his default, and then he may plead with the Demandant.

In the *Grand cape* the Tenant shall be summoned to answer the default; and further, to answer to the Demandant: but in the *Petite cape* he shall be summoned to answer unto the default onely, and not to the Demandant; and therefore it is called the *Petite cape*, because it includes less then the other.

And if the Tenant by the return of the Summons *Essoyn*, the Demandant adjourns fifteen days longer; and in this Case the Tenants Attorney may enter with the *Philizer*, that the Tenant appears and prayes view, *&c.*

Then there issues forth a Writ of view, whereby the Sheriff

Sheriff is to ſhew the Tenant the Lands in queſtion; which Writ ſuppoſeth that the Tenant knows not well what Lands it is that the Demandant asketh: by the return of which VVrit of view, the Tenants Attorney takes a Declaration.

Where a default is made after appearance, there a *Petite cape* is to iſſue forth at the ſuit of the Demandant; which VVrit, as alſo the *Grand cape*, is made by the Philizers of that County where the Land lyes.

To an action of Dower there be ſeveral Pleas, as the Caſe may require.

One uſual Plea is *ne unques ſeizique dower*; that is, that the husband was never ſeized of any Eſtate whereof the wife can be endowed.

There is alſo another Plea in Bar of Dower, called *Non tenure*; the defendant pleads that he cannot render the demandant her dower, becauſe he is not thereof Tenant as of the Free-hold, nor was at the day of the iſſuing forth of the Original VVrit of her the ſaid demandant, nor at any time after, *Et hoc parat. eſt verificare, unde petit Judicium brevis prædict.* &c.

To this the demandant may reply, That her VVrit ought not to be quaſhed for any thing before alledged, for that the day of the iſſuing forth of the Original VVrit of her the demandant, *viz. (tali die & anno)* the defendant was Tenant of the Land, &c. as of his Free-hold, as by the ſame VVrit is ſuppoſed, *Et hoc petit quod inquiratur per patriam, & pred. def. ſimiliter. Ideo*, &c.

Nonage may alſo be pleaded in Bar of dower, That the demandant at the time of the death of her husband was not of full age that ſhe ſhould deſerve dowry; that is to ſay, of nine years and an half, *Et hac parat. eſt verificare, unde petit Judicium ſi predicta*

A. dotem ſuam de Tenementis pred. cum pertin. habere debeat, &c.

To this the Demandant may reply, that ſhe was of full age, *&c. Et petit quod inquiratur per patriam*, &c.

There is another Plea in Bar of Dower, called an *Elopement*,

Which is, that the Demandant ought not to have Dower, becauſe in the life-time of her Husband ſhe voluntarily left him, and did lead her life in Adultery with another at, *&c.* during the life of her late Husband, *Abſque hoc*, that her Husband in his life-time was reconciled to her, *&c.*

To this Plea of *Elopement* the Demandant may reply a reconcilement; ſaying, That ſhe ought not to be barred for any thing before alledged, becauſe ſhe ſaith, that her Husband in his life-time of his own accord, without any Eccleſiaſtical compelling, did reconcile and ſuffered her to live with him, *&c.*

To this the Defendant may take iſſue, ſaying, That the Husband in his life-time did not reconcile in manner and form, *&c. Et de hoc ponet ſe ſuper patriam*, &c.

A man may call to warranty in Dower, and then is the party who is called to warranty ſummoned in the County where he lives, and that by the aid of the Court: And this is called a Counter-plea of the Voucher in Dower.

An Annuity may alſo be pleaded in Bar of Dower; but in this action of Dower, if the Tenant have no ſpecial matter to plead in Bar thereof, his beſt way to ſave charges is to confeſs the action by *non ſum informatus*, or let it go by default.

Obſerve that in this action of dower as in all other real actions when you plead for the Defendant, you ſay onely *Venit & dicit*, and not *Venit & defendit vim & injuriam*, &c. as in other perſonal actions. SCET.

CHAP. XXV.

Of the Writ of Formedon

THis is a real action, and is called *Formedon*, *quasi forma donationis*; and hereof there be three kinds:

The first is called *Formedon in le discender*, a *Formedon* in the discent, which lyeth where a Tenant in Tail enfeoffeth a stranger, or is disseized and dyeth; the Heir shall recover the Land by a Writ of *Formedon*.

The second kinde is a *Formedon in le remainder*; and this Writ lyeth where one giveth Lands in the Tail, and for default of Issue the remainder to another in Tail, and that for default of such Issue the Land shall revert to the Donor; if the first Tenant in Tail dye without Issue, he in the remainder shall recover by this Writ.

The third is *Formedon* in *Reverter*, and that lyeth where the Tenant in Tail dyeth without Issue, and he in the remainder dyeth also without Issue; then the *Donor* or his Heirs shall recover the Land again by this Writ of *Formedon* in *Reverter*.

Where a Tenant in Tail aliens or is disseized, or if a recovery be had against him by default, and that he dye, his Heir shall have a *Formedon*; for the Heir shall not have other recovery for the Possession of his Ancestors but by *Formedon*: But if he be *outed* of his own Possession, as if he be seized and put out, he shall have his Writ of *Assize*.

Formedon lies by the Heir of a Gift made before the Statute of *Westm.* 2. where the Donee after the Statute Aliens and dyes.

VVhere there is a Tenant in dower or by the courtesie.

The reversion to another in Tail, if one intrude after the death of the Tenant in dower, or by the Heir of courtesie, he in the reversion shall not have intrusion, but a *Formedon*.

A woman in Tail takes a husband which aliens, and after they are divorced, and after the husband dyes; the wife in this Case shall have a *Formedon*, and not a *Cui in vita*.

If a Tenant in Tail lets for life, and the Tenant for life aliens in Fee; the Tenant in Tail shall have a *Formedon* at his pleasure.

VVhere Land is given to one for life, the remainder to the Father in Tail (if it were executed in the Father) and he aliens; the Issue may have a *Formedon* in discender generally, or may have a special VVrit, making mention how it was given for life, the remainder to his Father in Tail; and one or other is good.

In conveyance of degrees you need not name him Heir, but son of him which was not seized; but it is a surer way to name him son and heir to every one, if he were seized or not; but he cannot omit any in his Writs, which were seized.

In *Formedon* if the demandant omit one who held the Estate, that is to say who was seized, the VVrit shall abate.

The demandant in this VVrit ought to make his discent by all which hold the Estate, otherwise the VVrit shall abate.

Though the demandant be made Heir to him who dyed in the life-time of his Father, who was not seized, yet the VVrit shall not abate, but is good.

Esplees shall be alledged in *Formedon* in *Reverter*

in

in the *Donor*, and in the *Donee*; and in *Formedon* in the diſcender and remainder in the *Donee* onely.

Thoſe *Eſplees* are as it were the ſeiſin or poſſeſſion of a thing, profit or commodity that is to be taken; as of a Common, the *Eſplees* is the taking of the Graſs or Common by the mouths of the Beaſts that Common there; of an Advowſon, by taking the Graſs, Tythes by the Parſon preſented thereto: Of Wood, the ſelling of VVood; of an Orchard, the ſelling of Apples and other Fruit growing there; of a Mill, the taking of Toll is *Eſplees*, and of ſuch like.

In a VVrit of Right of Land or Advowſon, *&c.* the demandant ought to alledge in his Declaration, that he or his Anceſtors took the *Eſplees* of the thing in demand, otherwiſe the pleading is not good.

Formedon in remainder he alledged *Eſplees* in the Tenant for life, and not in the Donor.

The Proceſs in *Formedon* is a ſummons betweeu the Teſte and return thereof; there muſt be nine returns, and after the ſummons a *Grand cape*, Writ of *View*, and *Petite cape*, as in dower,

This VVrit of *Formedon* is now almoſt *obſolete*, being rarely brought except in ſome ſpecial Caſes where it cannot be avoided, it being tedious, dubious, and very chargeable; the trying of Titles by *Ejectione Firme* ſupplies that place thereof at a far quicker and eaſier rate.

SECT.

SECT. XXIV.

Quare impedit.

THis may be ſaid to be a ſpiritual action, it being a Proceſs that lies where a man hath an Advowſon, and the Parſon dieth, and another preſenteth his Clerk, or diſturbeth him who hath the Right to preſent; then he may have this VVrit of *Quare impedit.*

Alſo an Aſſize of *Darreyn preſentment* lies where a man or his anceſtors have preſented before; and in ſuch Caſes where a man may have an Aſſize of *Darreyn preſentment*, he may have alſo a *Quare impedit*, but not otherwiſe.

Alſo if the Plea be depending between two parties, and be not diſcuſſed within ſix months, then the Biſhop may preſent by *Lapſe*; and he that hath right to preſent ſhall recover his damages: *Stat. Weſtm. chap.* 5.

Alſo if one have right to preſent after the death of a Parſon, and bringeth no *Quare impedit*, or *Darreyn preſentment*, but ſuffereth a ſtranger to uſurpe upon him; yet he ſhall have a Writ of right Advowſon; but this Writ lyeth not unleſs he claim to have the Advowſon to him and his Heirs in Fee-ſimple.

A *Quare impedit* may be brought by him who hath the grant of the next *Avoydance.*

It lies for the moyety or third part of the Advowſon, and of the advowſon or moyety of the third part.

A *Quare impedit* may be brought for a Chantry which is a donative, and he hath it by Letters-Patents, and

and that it be void, and he preſent to it his Clerk who is diſturbed by another, or another preſented to the ſaid *Chantry*, he which hath the right may bring his *Quare impedit*.

But if the Church be void, and the Plaintiff fear that the Defendant will get in, or that the Biſhop will collate his Clerk; then he may have a Writ directed to the Biſhop, which is called *Ne Admittas*; and this VVrit muſt be brought while the action is depending in the Common Pleas, whether by *Quare impedit* or *Darreyn preſentment*, and ought to be ſued out within the ſix months after the avoydance: for after ſix months he cannot have this VVrit, becauſe then the Living may be preſented unto by *Lapſe*; ſo that it is then too late to ſue out this VVrit, for that the Title of preſenting is devolved to the Biſhop; but the King may ſue this VVrit after the ſix months, having a VVrit of *Quare impedit* or *Darreyn preſentment* depending, *quia nullum tempus occurrit Regi*.

The Defendant as well as the Plaintiff may ſue out this VVrit, if the Defendant fear the Biſhop will admit the Plaintiffs Clerk, the ſuit depending. Now obſerve by the way, this VVrit of *Ne Admittas* lies not at all, unleſs the Plea be depending in the Common Pleas by *Quare impedit* or *Darreyn preſentment*.

And if the truth be that there be no ſuch Plea depending in the Common Pleas, then the party grieved may require the chief Juſtice to certifie the King in his Chancery, that no ſuch Plea is there depending; and thereupon he ſhall have a VVrit to avoid the *non Admittas*.

In this action of *Quare impedit*, after iſſue joyned, you may prepare your record for tryal as in other caſes; and when you have a verdict for the Plaintiff, and the *Poſtea* returned, and Judgement entred, you

may

may then have a VVrit directed to the Biſhop to admit your Clerk, or to the Arch-biſhop if the recovery be had againſt the Biſhop himſelf. And if a man have his Recovery againſt any other then the Biſhop, then is the Writ directed to the Biſhop to admit the Clerk; and upon this VVrit the Plaintiff ſhall have an *Alias* and *Pluries*, if the Biſhop do not execute the VVrit, and an Attachment againſt the Biſhop if need require.

SECT. XXV.

Audita Querela.

AVdita Querela is a VVrit which lyeth where one is bound in any Statute-Merchant, or of the Staple, or in a Recognizance; or where Judgement is obtained againſt him for debt, and his body be in Execution thereupon, then if he have a releaſe or matter ſufficient to be diſcharged of Execution, and hath no day in Court there to plead it; then he may be relieved by this VVrit againſt him who hath ſo recovered, or againſt his Executors.

If a Judgement, or Judgement and Execution be had againſt one, and the Plaintiff releaſe him of the debt in Fact, or that he be releaſed of it all, or part of it in Law, and yet he ſueth out execution; here the defendant hath his remedy by *Audita Querela*.

If a Judgement be obtained againſt two ſeveral perſons, and one of them be taken in Execution, and after is releaſed of the debt, or otherwiſe diſcharged of the Execution by the party himſelf, the other may

take

take advantage of this releaſe or diſcharge, and be relieved by *Audita Querela.*

If Judgement be againſt two Treſpaſſers, and one of them be taken, and the damage ſatisfied by him.

The like Caſe if a Judgement be againſt two or more upon the Bond, and execution is done upon, and ſatisfaction made by one of them.

If Executors ſue for and recover a debt, and after the Teſtament is revoked; in this Caſe the party that hath paid the money may get the ſame certified by the Biſhop, and then he ſhall have his remedy againſt the Executors.

If the *Conuſor* in a Statute after execution tender the money due upon the Statute to the *Conuſee*, and he refuſe it; or if part of it were paid at the day, and he tender the reſt in Court, and yet the *Conuſee* go on to extend it; in theſe caſes the party grieved may have this remedy.

If a Stature be delivered to a ſtranger to keep till certain conditions be performed, and he doth deliver it to the *Conuſee*, or he doth get it by fraud from him before the conditions be performed; in this Caſe the *Conuſor* ſhall be relieved by this VVrit.

If an Infant enter into a Statute, he may avoid it whilſt he is in minority by *Audita querela:* the courſe whereof is, In caſe he be in Priſon, this VVrit may be ſued out by ſome of his Friends to the Juſtices, who thereupon command the Sheriff to bring the Infant into the Court to be ſeen; and if the Judges judge him to be within age after Proceſs ſent to the *Conuſee*, they will diſcharge him. But if one that hath been an Infant be ſued upon it after he is of full age, he can have no relief by this VVrit.

If divers be bound by one ſpecialty (*Conjunctim*,

&

& diviſim) and the Obligee get judgement and execution againſt one of them, and after ſue the ſpecialty againſt the other; he may be relieved by *Audita querela.*

If in the interim betwixt verdict and judgment the parties have put themſelves into arbitrement for the ſuit, or the Defendant get a releaſe from the Plaintiff, and yet the Plaintiff doth proceed; the defendant may have an *Audita Querela:* but in all caſes judgement muſt be given before the bringing of the VVrit.

where a man ſues for a thing for which he had formerly judgement and execution, there an *Audita querela* lyeth.

VVhere a man and his Heirs are bound by any Bond or Bill, *&c.* and the Obligee ſue it and recover againſt the heirs, and after ſue the executors for the ſame cauſe: or on the other ſide, if he ſue the executors firſt, and after recovery had againſt them he ſue the heirs; in this caſe the heir or executor ſo ſued may have recovery by *Audita querela*, becauſe they cannot plead it in Bar.

Where a Leſſee covenants for him and his aſſigns to repair houſes, or to do any other thing chargeable upon him after aſſignment of his eſtate, and he aſſign his eſtate; and after the leſſor, who may ſue either of them, ſue and recover againſt one of them; in this caſe if afterwards he ſue the other for the ſame cauſe, he may be relieved by this VVrit.

When this VVrit is brought before execution executed, by the party grieved himſelf, or by his Heirs or Executors, upon ſuggeſtion of good cauſe for this VVrit, he muſt give Bail to proſecute, and ſtand to the Judgement of the Court, upon which he may have a *Superſedeas* to ſtay execution; but when the party is in Priſon, then there is no Bail put in; *Conuſee, Obligee,*

Obligee, or other Defendant in the *Audita querela* answer.

Where a man puts in Bail upon this Writ, he shall not be discharged of this Bail, but must continue till the suit by the *Audita querela* be determined: for although the party do not prosecute after the appearance of the defendant, yet he must continue in Prison, or stand upon his Bail.

If a man be non-suited in one *Audita querela*, yet he may have another; but he shall have no *Supersedeas* in the second as he had in the first.

The Process in *Audita querela* is *Venire facias, Distringas, Alias & pluries Distringas*; and if the Sheriff return that he hath nothing, &c. or that he cannot be found, &c. then shall issue a *Capias* against the Defendants body.

SECT. XXVI.

Of Wager of Law.

FOr one to wage his Law, is to take an oath that he oweth not the Debt demanded of him upon a simple contract, nor any penny thereof, in manner and form as the Plaintiff hath declared.

Where a Debt is due by Deed or Specialty, no wager of Law lyeth; but when it groweth by word, so as the Defendant may pay or satisfie the Plaintiff in secret, whereof the Defendant having no witnesses, may wage his Law; and thereby if the Defendant do wage his Law, and the Plaintiff stand to it, the Plaintiff is for ever barred of his Debt.

The Defendant may wage his Law to a Book-debt, or

or upon a *Mutuat.* upon an *insimul computassent* in Detinue.

Also in an action of debt upon an *Arbitrement*, or in an action of detinue by the Bailment of anothers hand, the defendant may wage his Law.

When a man pleads *Nil debet per legem.* and the defendant Essoyns not at the day, nor performs his Law, the plaintiff shall recover costs; and the Plaintiff is to enter a *Præcipe* hereof in the Common Remembrance, upon which the Prothonotary signs costs for *Defecit de lege.*

In an action of debt for an *Amerciament* in a Court-Baron, the defendant may wage his Law, because it is no Court of Record; but in an action of debt for a Fine or *Amerciament* in a Court-Leet he cannot wage his Law.

An alien shall wage his Law in that language which he can speak.

A *Feme covert*, together with her husband, may wage his Law for the debt of his wife.

An Infant under the age of twenty one years shall not wage his Law; and if an Infant be plaintiff, the defendant cannot wage his Law.

In no Case where a Contempt, Trespass, Deceit, or injury is supposed in the defendant, shall he wage his Law, because the Law will not trust him with an oath.

When the defendant pleads *Nil debet per legem*, he is to imparle till the Term following; or he may do it presently, at his own election.

But if he get day over till the next Term, he is to have a special care to come at his day to do his Law; and if he cannot then do it, he must be sure on the Essoyn-day of that return to *Essoyn*; whereupon the plaintiffs Attorney will adjourn it fifteen days longer,

ger, which if he neglect, the Defendant may non-suit the Plaintiff; but if the Plaintiff do adjourn it fifteen days longer, Then the Defendant is to do his Law at the day given him peremptorily, or Judgement shall be awarded against him, *quia non perfecit legem.*

Or if the Defendant at his day fail to do his Law or to Essoyn, the Paintiff may enter a *ne Recipiatur*, and give him day in Court to do it within three or four days after, and upon the Defendants default therein Judgement shall pass against him.

The manner of a wager of Law done in Court is thus: The Defendant standing towards the lower end of the Bar, the Judges ask him, Why he pays not the Plaintiff the money? he answers, He owes him nothing, or that he hath paid him, or to that effect. Then the Defandant saith after the Secondary these words, *viz.* This hear you Justices, that I owe not this debt, nor any penny thereof in manner and form as the Plaintiff hath declared against me: so God me help.

And if the Defendant thus swear, and the Plaintiff stand to it, then he is perpetually barred to bring any other action for this Debt; but if the Defendant be ready to do his Law, and the Plaintiff will not stand to it, but be *non-suit* and pay costs to the Defendant, then he is at liberty to bring any other Action, as an Action on the Case, to which the Defendant cannot wage his Law.

SECT. XXVII.

Eſſoyn.

AN Eſſoyn is a kinde of Imparlance, or craving of longer time.

An Eſſoyn lies in all real actions, as in Waſte, Dower, Partition, *Quare impedit*, *Formedon*, *Warrant. Chart.* &c.

And as I ſaid before, the Defendant that is to wage his Law may *Eſſoyn*.

The courſe of ſuing an Heir is by ſummons, *Pone*, and *Diſtringas ad infinitum*. At the return of the ſummons the Heir is to Eſſoyn: if he Eſſoyn not at the day, entring a *ne Recipiatur*, a *Pone* goes out fifteen days after, and then if he Eſſoyn not, a *Diſtringas* is awarded, and five pounds iſſues, which the Sheriff is to levy upon his Land; and if he appear not, *Diſtringas* after *Diſtringas ad infinitum* till he do appear. Now if the Heir Eſſoyn at the return of the ſummons, the Plaintiff muſt adjourn it; and if he do not adjourn it at the day, the Defendant enters a *ne Recipiatur*, and gives him a Rule within three or four days, by which time if he do not adjourn it, the Defendant non-ſuits the Plaintiff with the Clerk of the Eſſoyns.

The Defendant may Eſſoyn by the return of the *Pone*, if he do not upon the ſummons.

The ſame proceedings are againſt a Nobleman or a Peer of the Realm, *Sum. pone & diſtringas* until he do appear, and iſſues upon his Land all the while.

An Heir or a Nobleman cannot be arreſted *per Corpus*, nor properly ſued to the Exigent; for an Acti-

on

on lies against the Sheriff, if he return *Nichil habet*, they having lands in his Bailywick.

SECT. XXVIII.

How to prosecute a Writ of Error, and reverse Judgement thereupon.

AFter a Judgement had and recovered, by (*non sum informat.*) *Nihil dicit*, confession, or otherwise (if it be not after a Verdict,) these following causes of Error, or any of them being duly found, may serve to reverse and make void the same.

First, if there be any material difference or variance between the additions in the Original, or the process of *Capias*, *Alias*, *Pluries*, or *Exigent*, and the Judgement which is warranted by them: this is good cause of Error.

Secondly, if the Debt demanded in the Process, or either of them, and the Debt in the Judgement recovered do not agree, but are different: this is a good cause of Error.

Thirdly, if the Writs be not ordinarily and duly returned, and filed with the *Custos Brevium*, there is cause of Error.

Fourthly, if there be not Warrants of Attorney duly filed, and put in the Office accordingly, as the cause requireth, as one for the Plaintiff upon suing forth of the Exigent, or upon the Entry of the Judgement; there is good cause of Error.

And for these and all other *Errors* you are to search and get Copies of the Writs from the *Custos Brevium*, and observe diligently both them and their returns: and compare them with the Judgement, as it is entred upon Record in the Prothonotaries Office, where

you are to take your number-Roll out of the Docquets to that purpose, that so you may go readily to it in the Treasury at *Westminster*.

Fifthly, if the Defendant be arrested by a Writ of *Testatum* in a forreign County, and no Writ of *Capias ad satisfaciend.* returned against the Defendant with a *Non est Inventus* in the same County where the action was laid, and filed with the *Custos Brevium*: that is good cause of Error in the Execution, but not in the Judgement.

When you have thus searched and found cause of Error, and the Defendant be not arrested and taken in Execution, but would avoid the same; then must you proceed as follows.

First, having the number-Roll, that will direct you to the Treasury at *Westminster*, and there take a true Copy of the Judgement, with the additions of the Defendant, and of the Debt and costs of suit literally such as it is entred upon the Roll.

Then carry the same, or a Copy of the *Præcipe* Debt and Costs to the Cursitor for that County where the action is laid, and thereupon he will make you a Writ of Error.

Then go with the Writ of Error to the Clerk of the Errors, and carry with you good Sureties for Bail, such as the validity of the cause doth require.

Then the Clerk of the Errors will go with your Sureties to the Lord chief Justice of the Common Pleas for the time being, and there the Defendant with his Sureties enter into a Recognizance, in double the Debt, that the Defendant shall prosecute his Writ of Error with effect; and if the Defendant shall be condemned therein, and cannot prove sufficient Error, that then the Defendant shall pay the condemnation therein, with further costs of suit, such as shall be allowed, or they the Sureties to do it for him.

To

To this Bail the chief Justice subscribeth his hand, and giveth warrant to the Clerk of the Errors to make Supersedeas, one, two, or as many as the Defendant desireth, for his safeguard from being taken in Execution: which Writs the Defendant is to allow; with the Sheriffs of such Counties where he stands in fear of Execution before he be arrested, or the said Execution be executed either upon body or goods: for if the Execution be once executed, the Supersedeas comes too late; therefore it behooves the Defendant, to make haste to get that allowed in as many Counties as he suspects any danger, or hath occasion to go into.

This may be done in the Vacation, aswell as in the Term-time, if the Defendant be not arrested, nor have his goods taken in Execution.

For as I said before, if the Defendant be taken in Execution, before the Supersedeas be procured, then the Supersedeas comes too late; for the Defendant cannot be released thereupon, but must continue in durance until such time as the Judgement be reversed by the said Writ of Error in the Kings Bench: or if the Defendant pay the money due upon the Execution, and afterwards reverse the Judgement, he shall have a Writ of Restitution for the Plaintiff to pay back the money again.

Now for the reversal of a Judgement, the Defendant when he hath sued out his Writ of Error, and gotten the same allowed, must not rest here, but he must also cause the whole Record of all the proceedings, from the Original and the beginning of the same cause (if Error be not found in the entry of the Judgement it self) to be certified by the said Clerk of the Errors out of the Common Pleas into the Kings Bench; and there he must assign cause of Error.

The Record being thus certified, and Error assigned, upon the return of the said Writ of Error, the Defendant is to take Copies thereof, and thereupon to sue out a Writ of *Scire facias* to the Plaintiff in the action, *ad audiendum Errores*, to hear Errors.

To this the Plaintiff if he see cause may appear and plead: and the most usual and common Plea is, *In nullo est erratum*: that the Record is in nothing *Erroneous*. The Plaintiff having so pleaded, and being willing to have the said Error argued, and the Judgement confirmed, as cause shall require.

The Defendant according to his Recognizance, must so follow the same with effect, or else he will be condemned therein.

Therefore is the Defendant then to labour for a day given for the arguing of the same Error, if the cause shall so require.

But if the Defendant do delay the Plaintiff then the Plaintiff is to sue forth two Writs of *Scire facias* against the Defendant, to shew cause why he should not have Execution. And if at the return of the second *Scire facias*, Errors be not assigned, then shall Judgement be confirmed for the Plaintiff.

Take notice, that in this case, upon a Writ of Error brought upon a Judgement had in the Court of Common Pleas, and returned into the Kings Bench; the further proceedings thereupon must be onely in the Kings Bench, to which Court, and to no other, it doth properly belong, after it is thither returned.

But a Writ of Error upon a Judgement had in the Kings Bench, must be returnable in the Exchequer-chamber; and the cause of Error is heard and determined before the Lord Treasurer, Lord chief Justice of the Common Pleas, Lord chief Baron of the Exchequer, Chancellor of the Exchequer, and the rest of the Judges and Barons who are of the Coise of those two Courts.

If the Error be found, and allowed by them to be ſufficient and good, then the ſaid Judgement is by their full conſent declared to be reverſed and made void.

But obſerve, that notwithſtanding the reverſal of it, the Plaintiffs cauſe of action is not thereby taken away; for the Plaintiff may bring a new action againſt the Defendant for the ſame cauſe, if he will.

If the Error be not found good and allowed, then is the former Judgement affirmed, and further coſts for delay of Execution, allowed to the Plaintiff, who may preſently take out Execution out of the Court of the Kings Bench, either againſt the Defendant or his Sureties, as he thinks beſt, and proſecute againſt them either by *Scire facias*, &c. as in the caſe of ſpecial Bail, or by an action of Debt.

The Fees, and accidental charges in the proſecution of a Writ of Error, are very uncertain: but the general heads of ſuch things as you muſt pay for, are

For ſearch of the Record to finde the Error.
For Copies of the Record.
For the Writ of Error.
For the Lord chief Juſtices Fee.
Putting in Bail.
Certifying the Record.
Aſſigning cauſes of Error.
For an *Habeas Corpus*.
For the allowing.
For the return.
For the *Superſedeas*.
For the Copy of the Writ of Error.
For Drawing Diminution if need require.
For the Copy thereof.
For entring the Errors and Plea.
For a *Certiorari* if need require.

For a Certificate from the *Custos Brevium*.
For entring the same and Diminution.
For the Warrant of Attorney.
For the Copies of the Books for the Judges.
For Councellors Fees.
For affirming the Judgement.
For the Copy thereof.
For the *Scire facias* and entring.
For Filing and Returning.
For Attorneys Fees.

Cum multis aliis, &c.

Note, that if upon any Judgement recovered and had against the Defendant, he be taken in Execution, or have his Goods taken, or his Lands extended for the same; and upon full payment or satisfaction of the Debt and Costs, the Plaintiff either in Person, or by his Attorney, do acknowledge satisfaction upon Record, in the said Court wherein the said Judgement was entred: And if the Defendant at no time before or after, make a Release of Errors to the Plaintiff, and that there be good cause of Error found in the said Judgement; the Defendant may bring a Writ of Error upon the said Judgement: and upon the arguing thereof, if the Error be allowed by the Judges, and the Judgement thereupon reversed, the Defendant may sue forth a Writ of Restitution against the Plaintiff, and recover back again the full Debt and Costs of suit, specified in the said Judgement: but if the Defendant hath given a release of Errors, he is void of remedy.

And observe further, that if there be a Judgement had and recovered against the Defendant by way of *Nisi prius*, and verdict of twelve Men, Then unless he can finde some good cause after the Verdict so given and had, he cannot be admitted to bring a Writ of

of Error: for by many Statutes, as the Statute of Jeofailes, many great faults, miſpriſions or cauſes of Error, had or committed in the proſecution of the ſaid cauſe before the ſaid Verdict, are taken away; and by an Act of the laſt Seſſion of this preſent Parliament 16 *Car.* 2. all ſtay of Execution by *Superſedeas* upon Writs of Error after a Verdict are taken away.

Thus have we by this time informed our Sollicitor of the practice of the Court of Common Pleas, which will as a Map, ſhew him alſo the general practice of all the Courts of Common-Law in *England*, who imitate the ſame in ſubſtance, though they ſomewhat vary their *Forms*. We ſhall in the next place teach our Sollicitor what Fees he ought to pay to every Officer in the Common Pleas, and then lead him to the Kings Bench.

CHAP.

CHAP. XII.

The several Fees due and payable to the Judges and Offices of the Court of Common Pleas at Westminster.

SECT. I.

The Lord chief Justice his Fees.

Writ of errour. FOr allowance of a Writ of Error upon an Outlawry before Judgement, 20 *s.*

For a Bail taken upon an Outlawry upon mean process in debt, if the debt be 20 *l.* or above, 3 *s.* 4 *d.*

For the allowance of a Writ of *Error* upon a Judgement, 20 *s.*

For Bail taken in case of debt after Judgement, 12 *s.*

For the allowance of a Writ of *Error* upon a judgement upon a *Scire fac.* and Outlawry after Judgement, 35 *s.*

Marking the roll. For marking the Roll that a Writ of *Error* is allowed on, 2 *s.*

Superſed. For a *Superſed.* 3 *s.*

Tranſcript. For the tranſcript of a Record being a preſs, 6 *s.* 8 *d.*

For

For every press more, 6 *s.* 8 *d.*

For the return of every *Certiorari*, 14 *s.* 9 *d.* *Certiorari.*

For the seal of every Record of *Nisi prius*, 2 *s.* 1 *d.* *Seal Nisi prius.*

For the seal of every Writ sealed in Court. 1 *d.* *Sealing of writs,*

For the seal of every Exemplification, 2 *d.* *& exemplificat.*

SECT. II.

The Fees following are due to such of the Judges who do perform the business.

FOr acknowledging of a Fine or Warrant of Attorney for a common Recovery out of Court, 6 *s.* 8 *d.* *Fines.*

For signing every Writ of priviledge to remove any cause, *Habeas corpus*, *procedendo*, or *Superscd.* upon a *Procedendo*, 4 *s.* *Signe writs.*

For every Bail taken out of Court upon any such Writ of priviledge, wherein one cause onely is returned, 9 *s.* 8 *d.* *Bails.*

For every cause more, 2 *s.*

For the confession of a Judgement out of Court, 9 *s.* 8 *d.* *Confessions.*

For every Philizers Bail, and other Bail, taken out of Court, 9 *s.* 8 *d.* *Bails.*

For acknowledging satisfaction out of Court, *Satisfaction.*

Court, 9 s. 8 d.

Deeds acknowl. For acknowledging out of Court a Deed to be inrolled. 9 s. 8 d.

Guardians. For admiſſion of a Guardian out of Court, 9 s. 8 d.

Suggeſtion. For the proof of a ſuggeſtion out of Court, for every witneſs, 9 s. 8 d.

Warrant for fine. For a warrant for paſſing of a Fine, where there are more then three Cognizors, or three Cognizees, parties to the Fine, 4 s.

Affidavit For every Affidavit taken out of Court upon a forraign Plea or Reſcous, 2 s.

For any other Affidavit taken out of Court, 8 d.

Informations. For exhibiting of an Information out of Court, 8 d.

For ſigning a Bill of coſts to award an Attachment for not appearing upon a *Subpœna*, 8 d.

For granting licenſe to compound upon a penal law, 2 s.

For aſſeſſing of the Kings part of a forfeiture upon a penal Statute after compoſition with the Informer, 2 s.

Commitments. For the commitment out of Court of a Priſoner to the Fleet, charged with one cauſe onely, 9 s. 8 d.

Bails on Outlawries. For every Bail taken out of Court upon an Outlawry in debt upon mean Proceſs reverſed, if the ſame be twenty pounds, 2 s. 4 d.

SECT.

SECT. III.

Divident-Fees.

These Fees following are due to the Lord chief Justice, and the other Judges of the Court of Common Pleas, by way of Divident.

Fees in Court to the Box.

FOr confessing of a Judgement in Court, 6 *d.* — *Judgements.*

For acknowledging satisfaction in Court, if the Debt or Damage do not amount unto 100 *l.* 6 *d.* — *Satisfactions.*

If the Debt or Damage do amount to 100 *l.* 12 *d.*, and for every 100 *l.* after the same rate, 12 *d.*

For admitting an Infant in Court to his Guardian 12 *d.* — *Guardian.*

For reversing an Outlawry in Court for Error in the Exigent, or Retourn, 12 *d.* — *Ult.*

For the like for the insufficiencie of the Proclamation, or Retourn, or for want of a Proclamation, 2 *s.*

For every common Recovery acknowledged in Court, 6 *d.* — *Recoveries.*

For a Fine acknowledged in Court, 6 *d.* — *Fines.*

For a Bail taken in Court, or a Bail or — *Bails, Recognizances.*

or Recognizance acknowledged in Court, 12 d.

Deeds. For a Deed acknowledged in Court to be inrolled, 12 d.

Discont. For a Discontinuance, 12 d.

Prohibit. For a prohibition granted 9 s. 8 d.

Wagers of Law. For every wager of Law, or nonsuit upon a wager of Law, 6 d.

Attorny sworn. For admission of an Attorney to be an Attorney of this Court, 20 s.

SECT. IV.

The Puisne Judges Fees.

Fines. FOr every fine drawn at Bar, 12 d.

Recoveries. For a Recovery drawn at the Bar with a single voucher, 18 d.

For every voucher more, 6 d.

Reversals. For Reversal of an Outlawry in Court, 4 s.

Privy verd. For taking a privy verdict, 6 s. 8 d.

Costs taxed. For taxing of costs upon every verdict, 12 d.

Feod. annuale Clericus Warrant. From the Clark of the Warrants every Term, to every of the puisne Judges, 33 s.

Rot. Attorn. For every Attorney, whose name is recorded in the Roll of Attornies, every Term, 4 d.

For

For inrolling and examining the parts of a Fine, and Writs upon common Recoveries by the Statute 23 *Eliz.* 6 *s.* *Inrolling fines and recoveries.*

For the Exemplification and examination of the parts of a Fine, and Writs upon common recoveries by that Statute, 5 *s.* *Exemplification thereof.*

For drawing and entring a Rule for an amendment upon that Statute, 12 *d.* *Rules for amendments.*

For a search made upon the inrolement upon that Statute, 4 *d.* *Searches*

For a coppy of a Fine, or Writs inrolled upon common Recoveries, inrolled by that Statute, for every sheet, 4 *d.* *Copies.*

For the return of every Writ of Covenant brought to levy a fine upon, 10 *d.* *Return of Writs of Covenant and Entries.*

For the return of every Writ of entry to suffer a common recovery, every Writ of Summons and Seizin thereupon, 10 *d.*

An ancient Fee of 6 *s.* 8 *d.* for signing of a *Dedimus potestatem*, due to the Judges of any Court who do assign the same; which is now and of late hath been divided amongst all the Judges that ride the Circuits. *Signing Dedimus potestatem.*

SECT.

SECT. V.

These Fees following are due to the Clerks of the Lord chief Justice, and other the Justices of the said Court.

Finer. TO the Judges Clerk of the fines, for taking of a fine, or warrant of an Attorney, 3 s. 4 d.

Warrant of Attorn. For certifying of a fine or return of a *Dedimus potestatem*, 16 d.

Bails. To the Judges Clerk of the Bails, for taking every Bail, 12 d.

Caveat. For entring every Caveat to give notice that good Bail may be taken. 12 d.

Satisfaction. For satisfaction acknowledged out of Court, 12 d.

Deeds acknowledg. For a Deed acknowledged out of Court to be inrolled, 12 d.

Suggestion For the proof of a suggestion out of Court, for every witness, 12 d.

Affidavits For an Affidavit taken out of Court, 1 s.

Information. For entring into his book an Information exhibited out of Court, 4 d.

For entring into his Book of costs a Warrant signed to award an attachment for not appearing upon a *Subpœna*, 4 d.

Guardia. For Admission to a Gardian, 12 d.

Licenses. For entring into his Book a license to compound upon a penal Law, 4 d.

For

For entring into his book the Kings part of the forfeiture upon a penal Law assessed by the Judge, after composition with the Informer, 6 d.

For entring into a Book a commitment out of Court of a prisoner to the Fleet, charged with one cause onely, 12 d. *Commitments.*

To the puisne Judges Clerk of the Inrollments, for copying, inrolling, and examining the parts of a fine, and writs upon a Recovery, by the Statute 23 *Eliz.* 8 s. 4 d. *Inrollments. Fines and recoveries, &c.*

For a search made for an inrollment upon that Statute, 8 d.

For writing a fine, or writs inrolled upon a common Recovery inrolled by that Statute, 8 d.

SECT. VI.

The *Custos Brevium*, who is the prime & first Officer of the Court, his fees.

These fees following are the fees which are taken by the Custos Brevium *of his Majesties Court of Common Pleas, & his Clerks, in right of his said Office, & as they were taken* 11 Eliz. *by the then Master of the said office, & his Clerks.*

IN primis, for filing any Writ, or other Record, coming after the day of the return thereof, except Writs of priviledge *Pt. diem.*

de veniendo, & reduendo, and also Writs of priviledge, called *prop.* or *post diem*, 4d.

Pt. Ter. *Item*, for filing any Writ, or other Record (except before excepted) coming after the Term wherein it was retournable, called a *post Term*, 20 d.

Item, for filing any Writ, or other Record coming after two Terms, called *post Termin.* for every Term after, 20 d. apiece, except Exigents, and Outlawries, which pay but only 20 d.

Item, To the Clerk of the same Office (*ab antiquo*) who enters the same, 2 d.

Item, Upon the making of the Stat. 4 *H.* 7. *cap.* 24. the *Custos Brevium* was allowed by the Court for carrying and re-carrying of every fine levied according to that Statute, to *Westmin.* to the Cirographer to proclaim four Terms, 8 d.

Item, for keeping three parts of the Record of every fine, consisting of five parts, 4 d. apiece, 12 d.

In tot. for every fine 3 s. 8 d. whereof the Master hath 2 s. 6 d. and 14 d. is allowed to the Clerks 3 s. 8 d.

Amendments. *Item*, for the amendment of every writ or other Record *Per Warrant. Cur.* 20 d.

Non est factum. *Item*, for every *Non est factum* pleaded in Court, 2 s.

Sheriffs bundle. *Item*, for every Sheriffs bundle of Writs retornable of the precedent Term, and coming before Essoyn-day of the second return of the new Term, 8 d. SECT.

SECT. VII.

The usual Fees allowed by the Custos Brevium *to the Clerks of his Office.*

IN primis, for every Temple-search, 4 d *Searches.*
Item, out of every *Westm*-search, 2s. 1d.
Item, to the Clerks out of the allowance of every *Certiorari* 2 s. 8 d. and for certifying the same, *secundum longitud'nem*, and according to reason, 2 s. 1 d. *Certiora.*
Item, to the Clerk for writing and examining of every Exemplification, *secundum longitudinem.* *Exemplit.*
Item, to the Clerk for any Writ, or other Record carried into the Court, 4 d *Porta. br. in cur.*
Item, for entring a common Recovery 8 d. *Bre. de super de disseisinam in le post, Ingrum. et Fines*
Item, for every fine passing in the Writ-office, 14 d. *seia*
Item, for entring into a book every *Recipiatur* coming under a Judges hand, or by order of Court, 12 d. *Re- cipiatur.*
Item, for every Note of *Jurors* names for the Clerk of the Juries to make further Proces by, 4 d. *Nota Jur.*
Item, for every Note of an Exigent for the Clerk of the Outlawries to make further Proces by, 8 d. *Copia exso.*
Item, for the search of any Book of Entries of any Writs, for every Term, 8 d. *Searches.*

Copies. *Item*, for the Copy of any Writ, or other Record, for every ſheet, 8 d.

SECT. VIII.

The uſual Fees allowed by the Cuſtos Brevium *to the Bag-bearer of the Office, being always the common Vouchee of the Court.*

Searches. IN *primis*, for every ſearch under five years, 1 d.
Item, for every Temple-ſearch, 5 d.
For every *Weſtmin.* ſearch, 12 d.

Porta. br. in cur. For any Writ, or other Record carried into the Court, 5 d.

Recuper. For every common Recovery ſuffered in Court (being the common Vouchee) 4 d. apiece, 4 d.

Attourn. Jur. For every Attorney ſworn in Court, 6 d.

SECT. IX.

The Fees of the Clerk of the Inrolments of Warrants and Eſtreats in the Common Pleas, as are now, and have been taken theſe two and thirty years, and as I conceive were taken ever ſince, 31 Eliz. ſaving the Fees hereafter mentioned, allowed per ordin. Cur.

Inrolement. EVery Inrolement containing a ſide of a Roll, 5 s.

For

For a full Roll, 10 s.
And ſo according to the rate.

Every Warrant of Attorney *in deb. tranſg. & detinue*, 4 d. *War Att.*

The Sheriffs warrants, 12 d.

Every other warrant, called double warrants, 8 d.

For a *Poſt-Termin.* 4 d.

The Lord Mayor of *London* his warrant, 5 s. 8 d.

The Secondaries of the Compters in Eaſter-Term yearly, 13 s. 4 d.

For entring of an Attorneys name in the Roll of Attornies, upon his firſt admittance, 3 s. 4 d. *Attorn. Jur.*

For a warrant upon a writ of Covenant, *per ordin. Cur.* 4 d. *War. ſur fine.*

Paid to the Clerk by every Attorney 4 d. a Term, called the Roll-groat, which is paid to the Iudges Box, and I conceive it to be due ever ſince 11 *Eliz.* 4 d. *Rot. Att.*

Paid alſo to the Clerk by the Prothonotaries 12 d. upon every Recovery, which is alſo paid to the Iudges, 12 d. *Recuper.*

To the Clerk when an Attorney is firſt ſworn, 12 d. *Attorn. Jur.*

SECT. X.

The Chirographers Fees.

IN prim's, the ancient fee limited by Stat. 11 *Eliz.* for every fine, 4 s. *Fines.*

Item, from 4 *H.* 7. for the ſervice in proclaiming fines, 8 d.

Item, by Stat. 23 *Eliz.* for writing the Roll, 4 d.

So the Cirographers fee for every fine is, 5 s.

SECT. XI.

Other Fees alſo due, and anciently paid to the Cirographer, videlicet,

Exemplification. FOr exemplifying a fine, the Term in which it was ingroſſed, 2 s. 8 d.

Copie. For every ſheet of every fine, of twelve lines, copied out of the Record, 12 d.

For the ſight of every Record being ancient, from *H.* 8. upwards, 3 s. 4 d.

Searches. For the ſearch of every fine from *H.* 8. to this preſent, for every year, 8 d.

For the ſearch of every fine during the Reign of *H.* 8. for every year, 12 d.

Certiora. For certifying of every Record by a Writ of Error, 12 s.

Quid jur. clam. &c. For a *Quid juris clamat, quem reddidum reddit, & per quæ ſervit.* 6 s.

Claims. For entring a claim upon a Record, 5 s.

Pt. fines. For allowing of Proclamations upon fines brought into the Office after the Term ended, 6 d.

Pt. Terminum. For the *Poſt Termin.* of a fine, 12 d.

SECT.

SECT. XII.

The Cirographers Clerks Fees for ingrossing of Fines by the Attorneys which sue them out.

THe Cirographers Clerks have received an allowance of the Attornies for their pains for them, which heretofore have been more advantageous unto them then now it is, being reduced to 2 *s.* 6 *d.* in certain, had and made at the request of 100 or 80 of the most ancient Attornies, with *John Brewer* Esquire, Clerk of the Office, in 2 or 3 of King *James*: To which agreement had and made in writing, the said Attorneys set their hands, and the same was delivered to Sir *Edward Cook* Knight, then chief Justice of the Common Pleas, and hath so continued ever since, 2 *s.* 6 *d.* *Fines ingr.*

For this allowance the Clerks do write more then all the Officers through which Fines do pass, *viz.* They write every Fine, long or short, four times over in a great set-hand.

SECT. XIII.

Fees belonging to the Clerk of the Treasury.

FOr the Copy of every issue, and imparlance, for every sheet, 4 *d.* *Copie.*

For every Judgement, Deed enrolled, and real Actions, for every ſheet, 8 d.

Searches. For the ſearch of every Term above ten years, 4 s.

Exemplification. For every Exemplification not exceeding three ſheets, 7 s.

For every ſheet more, 12 d.

Records of Niſi prius. For every Record of *Niſi prius* not exceeding three ſheets, 2 s.

For every ſheet more, 4 d.

SECT. XIV.

Fees for the Keeper of the Treaſury from 11 Eliz.

Searches. IN *primis*, for ſearch of a Term above ten year, 8 d.

For ſeven years under ten years, 4 d.

For three years, 0.

For ſearch of a Plea-Roll, 4 d.

Portam Rot. For a Roll carried into the Court, 6 s.

Ligam Rot. For making up a term and record, 3 s.

Attor. jur. For every Attorn. ſworn in court, 12 s.

Jur. at bar. For a Jury at-bar, 5 s.

Niſi pr. mid. Ga. For a *Niſi prius*, in Mid. 2 s.

ger de lay copia per fines. For a Wager in Law, 5 d.

Intra pt. Termi. For a Copy of a *Precipe*, after the Term, 18 d.

For a fine acknowledged in the Treaſury. 4 d.

For a Warrant of Attorney left unentered, and comes to be entred in the Roll after the Term, 4 d.

For

For an entry left out of the Kings silver, and comes to be entred in the Office, 4 d.

From the Clerk of the Treasury for my attendance every Term, 5 s. *Feod. an.*

For my key after the Term, 18 d. *Claves Thes.*

SECT. XV.

The fees of the Clerk of the Kings silver, as they were taken in the eleventh year of Queen Eliz. *in the sixteenth year of King* James, *and in the late Kings time, and since.*

IN *primis*, for the fees of every ordinary fine taken by the Lord chief Justice of the Common Pleas, or any Iudge of Assize in the Western Circuit, together with the copy or *Post-fine*, 18 d. For every fine taken in the same Circuit by special Commission, and for the Copy of the *post-fine*, 22 d. *Fines in the Western circuit.* *Fines by special Deed.*

For every ordinary fine elsewhere in *England* and *Munmouthshire* taken as aforesaid without Commission, and for the copy, 10 d. *Ordinary fines.*

For every fine taken by special Commission out of the Western Circuit, and for the Copy, 14 d. *Western.*

For every several Caption in any fine where it is taken at several times by special Commission, over and above the former rates, 4 d. *Several capti.*

For

Certiora. For every fine certified by *Certiorari* after the death of any Judge, or other Commissioners, over and above the former Rates, 6 *d.*

Pt. Termi For the *post Termin.* of every fine brought in the next Vacation after the return of the writ of Covenant, 6 *d.*

Searches. For every search of any fine, every Term, 4 *d.*

Copia. For every Copy of the Entry of the Kings silver, 8 *d.*

Ne recipiatur. For every fee of a *Ne recipiatur* of any fine, either by order or warrant of the Court, or any Iudge, 3 *s.* 4 *d.*

For the continuing of any such order or warrant from term to term, till it be dissolved, 3 *s.* 4 *d.*

SECT. XVI.

The Philizers Fees.

Cap. Al. & Plur. IN *primis*, for every Cap. Al. and Plur. Cap. in Debt, Detinue, and Trespass, not having more then four names in a Writ, and Entry thereof, 6 *d.*

Deliv. of Rec. of the Cap. *Item*, for delivery of every first Cap. upon Record and entry thereof, 4 *d.*

Testat. Ponesum. Bria in compo. For every *Testat.* upon any of the said writs, *Pon. in Replev. & Summons*, 12 *d.*

Item, for every *Cap. Al. & Plur.* in Accompt, Covenant, Annuity, *Ejectione firme*, and upon penal Stat. 12 *d.*

Actio. super casum *Item*, for every writ in action upon the

the case, or more, according to the length, 12 *d.*

For every return *Habend.* and second deliverance, and entry thereof, 2 *s.* 6 *d.* *Return Habend.*

For every *Non omit. & Cap.* in Withernam, 2 *s.* *Nonomit. Withern.*

For every Writ of partition, *Warrant. charte*, *Quare imp.* and Waste, 12 *d.* *Partition wast, quare impedit, War. Cart.*

For every writ for enquiry of damages in real actions, *Scire fac. & Supersed.* 2 *s.* *Inq. dedo. Scire fac. supersc.*

For every grand *Cap. Al. Sum. pet. cap.* and entry thereof, 2 *s.* 6 *d.* *Gr. & pet. cap. Copia inde.*

For the Copy of the entry thereof, 8 *d.*

For the demand in every writ of view, and entry thereof, 2 *s.* 6 *d.* *View. Seizin.*

For every writ of Seizin, and entry thereof, 4 *s.* 6 *d.*

For the view prayer, 2 *s.*

For a Copy of the entry thereof 8 *d.*

For every writ of *Habeas Corpus duc. coram, distring. nuper vic. & distring. ballivum*, 2 *s.* *Hab. Cor. & distric. con. resort resceus.*

For every writ of Rescous, and entry thereof, 2 *s.*

For the entry of every adjournment, discontinuance, and resort, 4 *d.* *Adjourn.*

For every special bail, and the entry thereof, 2 *s.* 10 *d.* *Special Bail.*

For every appearance in real and mixt actions, 4 *d.*

For

Appearance. For every appearance upon writs to arreſt, and the Entry thereof, 12 d.

Searches. rules, copies, number-rolls. For ſearches, copies, number-rolls and giving of Rules, each of them, 4 d.

SECT. XVII.

Exigenters Fees.

Feod. Exigenters. EVer ſince the Statute of *Henry the Eighth*, which gave the Proclamation upon the exigent, the whole eſtate of the Exigenters Office did conſiſt in the makeing of three writs, *Videlicet*, an Exigent, a *Superſed.* and a Proclamation; all which writs are warranted by one and the ſame Record.

For all the time of our remembrance and experience in the ſaid Court, which hath been (by the moſt ancient of us) for about thirty years or thereabouts, the fees of the ſaid writs were as followeth, *viz.*

The Superſed.	2 s.
The Exigent,	11 d.
The Proclamation,	6 d.

Which fee of 6 d. was given by the Stat. of *6 Hen.* 8. being now about one hundred and ten years ſince.

About

About eight or nine years ſince, the Superſed. *(quia improvid.)* being the leaſt VVrit in labour, and more in profit then both the other, was granted by Letters Patents under the great Seal of *England*, by the late King of famous memory, to Mr. *John Murray* then of his Majeſties bed-camber: and partly to avoid conteſtation with his ſaid Majeſties grant, and upon hopes and promiſes of ſome recompence other way, the Exigenters did give way to the ſaid Patent, and have ever ſince loſt the benefit of the ſaid Superſed. whereupon the Judges did give increaſe only of 1 *d.* to be taken upon the Exigent, for relief of the Exigenters and their Clerks, and ſo the Exigent was made 12 *d.* which increaſe of 1 *d.* is all the recompence which hitherto they have received for that great loſs of the Superſed.

VVe have likewiſe heard, that above forty years ſince, and before our times, by occaſion of an *Act* of Parliament made 31 *Eliz.* whereby the Proclamation of the Exigent was much inlarged, without any addition or increaſe of fee, there was one penny added to the Exigent, to be given to the poor Clerks for writing the ſaid writs, over and above the ancient allowance; which penny hath ever ſince been paid to the ſaid poor Clerks accordingly, without any benefit to the Maſters themſelves.

Other increaſe, addition, or alteration of fees in our Offices we know not of, nor ever heard of, although the length of the ſaid Exigent or Proclamation, with their entries, conſidering the loſs of the *Superſed.* (all which we humbly ſubmit to his Majeſties Commiſſioners) might perhaps have juſtly deſerved ſome further improvement. And it is certainly true, that no other increaſe of fees hath been in our Offices ſince 11 *Eliz.* nor for ought we ever heard, or can by any means conjecture, for theſe hundred years at the leaſt.

SECT.

SECT. XVIII.
HILLAR. TERTIO
Caroli Regis.

The Clerk of the Jurors.

A Note of all such Fees as are now usually taken by the Clerks of the Jurors of his Majesties Court of Common Pleas at Westmin. *being the same, and no other then such as have been taken time out of mind.*

Habeas Corpus. IN *primis*, for a writ of *Habeas corpus, Jurator.* in debt and trespass, 10 d.
For the like Writ in all other Actions, 16 d.

Distring. For a *Distringas cum decem Tales*, 2 s. 4 d.

Search. For a Terms search, the copy of a Jury,
Copy. a number-roll, and a discontinuance and
Court, adjourn. adjournment, for every of them 4 d.

SECT. XIX.
The Clerks of the Essoyns.

Essoyn, except. IN *primis*, for every Essoyn and exception, 4 d.
Copia. For the Copy, 4 d.
Adjourn. For every adjournment, 4 d.
Copies. For the Copy, 2 d.
Idem dies For every *Idem dies*, 4 d.
Non Pros For every non-suit for want of adjournment in Actions personal, 2 s. 4 d.

For

For the Copy, 12 d.
For every Non-ſuit in actions real, 4 s 4 d.
For the Copy, 12 d.
For the Exemplification of every Eſſoyn and Non-ſuit thereupon when it ſhall happen, being very ſeldom, 7 s. 6 d. *Exempli.*
For the Copy thereof, 3 s. 4 d.
For the Clerk, 12 d.
For ſeveral fees from ſeveral Officers of the Court towards the numbring and marking of the Rolls, 4 l. 9 s. *Feod. ans*

SECT. XX.

Outlawry Office.

In the Kings Attorney-general his office of the Outlawries, *executed by his deputy Maſter* Johnſon, *the Fees are as followeth,* viz.

FOr a ſpecial *Cap. Utlagat.* againſt body, lands and goods, 2 s. 4 d. *Cap. Utl. ſpecial.*
For a *Proprium*, 14 d.
For every Writ of *Hab. Corp. & duces tecum*, when they are ſued forth, 2 s. 4 d. *Hab. corp. duces tec.*
If a propr. 12 d.
For a general *Cap. Utlagat.* 10 d. *Cap. Utl. general.*
For ingroſſing and certifying a ſpecial Writ, with the Inquiſition returned by the Sheriff, of lands or goods found thereupon, and for the Exigent, with the Return thereof at large certified into the Exchequer, *Certifica. utl. in left*

Exchequer, when it is required, the Office-fee is eight ſhillings, unleſs it be commanded by the L. Treaſurer, Chancellor, or Barons of the Exchequer, or by the Kings Attorney-general, or Sollicitor, for his Majeſties ſervice onely, then no fee is due, 8 *s. aut nil.*

Certifica. reverſ. in ſecium. Exon. libri. de utl.

For ingroſſing and certifying a reverſal into the Exchequer to diſcharge ſeizures upon Outlawries, when any is, 5 d.

And to the Clerk, 4 d.

For entring the reverſal in th'outlawry office to diſcharge all Proceſs thereupon, or upon any writ of Error, 2 s. 8 d.

Certifica. utl. vel reverſal.

For certifying of an Outlawry, or Reverſal when it is pleaded, 2 s.

And to the Clerk, 4 d.

Search. Filaco exfa.

For ſearch of an Outlawry one Term (as in all other Offices) 4 d. if above a year, then 3 d. a Term, which is the utmoſt, 3 d.

For entring and filing an Exigent, with one Proceſs thereupon, 4 d.

Theſe ſeveral Fees aforeſaid were paid and received in Eaſter-*term*, 34 Eliz. *and ever ſince to mine own knowledge; for ſo long I have been and continued Clerk and Deputy to all Attornies-general that have been ſince that time.*

Theſe (as I underſtand) are the true fees.

SECT.

SECT. XXI.

The Fees of the Seal for Writs.

ALL Writs of the Kings Bench, and Common Pleas, 7 d *Seals of Writs.*

The exemplification of the Kings Bench, 2 s. 2 d *Exemplifica.*

The exemplification of the Common Pleas, 2 s. 6 d

Outlawries, 1 d

Propt. 1 d

SECT. XXII.

Fees due to the Marshal & Proclamator of the Court of common Pleas, given by order made by all the Juages of the Court, Term Trin. 31 *H.* 1. post conquestum, *and received accordingly by the said Marshal & Proclamator, for any thing appeareth to the contrary, until* 11 Eliz. *and ever since.*

IN *prim's*, For every Judgement and Nonsuit, 4 d *Judgements.*

Item, for every fine, 8 d *Fines.*

Item for every final Judgement, 12 d

Chief Usher of the Exchequer, and Marshal & Proclamator of the said Court of Common Pleas by Lease from *Clement Walker* Esquire, who hath the same Office in inheritance by grand Serjeanty.

The four Cryers.

HEreafter infue the good Ordinances and Rules, made as well by the Kings Juſtices of the Common Pleas in times paſt, as by the Juſtices now being, for the good Rule and Order of the ſaid Court; which the ſaid Juſtices do charge & command every of the ſaid Officers and Attornies well and truly to obſerve and keep, upon the pains therein limitted.

Which ſaid Orders were inroled *Termin. Trin.* 35 H. 1. *poſt conqueſtum, rol:* 494. *Jo. Prieſt* chief Juſtice of the Common Pleas, *Ni. Auſten, Pet. Arder, Ro. Davers, Ro Dawby, Wa. Moile*, and *John Needeham*, Juſt. of the ſame Court.

SECT. XXIII.

The Cryers Fees from 11 Eliz.

Judgements.
FOR every Judgement, 4 d
For every final Judgement, 12 d

Fines.
For every Non-ſuit, 4 d
For every fine, 8 d

Recoveries.
For every Recovery, 8 d
For calling a Jury, if they fill not, 2 s
For every Jury if they fill, & ſerve, and give up their verdict the ſame day at the Bar, and for keeping them till then, 16 s
If the Jury lye all night, that we be forced to watch and wait on them all night, 30 s

For

For carrying every bundle of Records out of the Treasury into the Court, and back again into the Treasury, 6 d *Carrying Rolls.*

For every Attorney that is sworn, 6 s *Attor. jur*

For every Bail, 12 d *Bails.*

For every Oath in Court, 12 d *Oathes.*

For every wager of Law, old fees, 4 s. 4 d *Wager's of Law.*

For every *Scire fac.* called in court, 4 d *Calling Scir. fa.*

For every *Nisi Prius* before my Lord chief Justice, 4 s *Nisi pr.*

For every admittance to a Guardian, 12 d *Guardi.*

SECT. XXIV.

The Fees of the Keeper of the Court, from 11 Eliz.

FRom the Clerk of the Treasury for hanging the Cloath of the Court, 6 s. 8 d *Feod. an*

For a Wager of Law, and Wagermen, 9 s. 6 d *Wager of Law.*

For a Jury at Bar, 5 s *Furies.*

For every Attorney sworn in Court, 12 d *Attorn.*

For a *Nisi prius* in Middl. 2 s *Nisi pr.*

For a Bail, 4 d *Bails.*

For a fine, 4 d *Fines.*

For a Deed acknowledged, 4 d *Deedae*

For satisfaction acknowledged, 2 d *Satisfa.*

SECT. XXV.

The fees of the Clerk of the Inrolements of Fines and Recoveries.

Of Fines and reco. ingross. IN primis, The fee due to the Judges by the Stat. of 23 *Eliz.* for inrolling of every fine and recovery. 6 s. 8 d

Exemplification. *Item*, due to the Judges by the same Statute for exemplifying every inrolment, 5 s

Search. For search of every fine inrolled, for every year, 16 d

Copies. For copying every fine inrolled, for every sheet, 12 d

Inrolem. For the Clerks fee for inrolling, by the Roll, 8 s. 8 d

Exemplification. For exemplifying, after the same rate, 8 s. 4 d

Rules for amendm. For every Rule upon amendments, 3 s. 4 d

Retur. of writs of entry, covenant, seizin, &c For returning Writs of Covenants upon fines, and Writs of Entry, Summons, and Seizins upon common Recoveries, as Deputy of Record for Sheriffs appointed by the Court, the ancient fee is, 2 s

SECT. XXVI.

The Porter of the Court, his Fees from 11 Eliz.

Writs of entry. FOr every Writ of Entry with Mr. Attorney-general. 4 d

Jurat B. For a Jury at Bar, 5 s

For

For a *Nisi prius*,	2 s	*Nisi pri.*
For a Wager of Law,	6 d	*wa. of law*
For a fine acknowledged,	4 d	*Fines.*
For a Bail,	4 d	*Bails.*
For satisfaction acknowledged,	2 d	*Satisfact.*
For the Attornies Oath,	12 d	*Att. swor.*
For a Guardian,	4 d	*Guardian*

SECT. XXVII.

Alienation-Office.

THo. Ravenscroft, Fran. Poulton, Geo. Coulerop, Esquires, Commissioners.
Tho. Bond Esqure, Receiver.
Take no fees, but receive a certain stipend form the King.

SECT. XXVIII.

Fees taken by the Master of the Chancery, for that Office appointed.

FOR signing every Docquet upon License and Pardon of Alienation.	2 s	*Docquet.*
For every Writ of Entry, for Lands holden in chief,	2 s	*Pt. Writs.*
For Writs of Entry of Lands not holden in chief,	4 s	
For Affidavits upon discharge of Tenures,	2 s	*Affidav.*

SECT. XXIX.

The usual Fees taken in the Office of Compositions for Alienations, by the Clerks there.

Certifi. FOr a certificate upon a writ of Entry, 3 s. 4 d

Pardon. For the Warrant to the great Seal for pardon of Alienation, 10 s

Discharges of Proces. For viewing the Subjects evidences. search of the Tenures, and drawing of the Affidavit with Proces, to be discharged, 6 s. 8 d

Release. For a Release in nature of a Pardon of alienation upon a common Recovery, & for the like release upon a special Livery, and also for a Release upon a general pardon at the Coronation, or other times, for each of them, 13 s. 4 d

Dise. of seizure. For the Note of a Sheriffs discharge upon a seizure, 3 s. 4 d

For every Exo. and for certifying thereof into the Exchequer, 12 d

Acquit. For the Sheriffs acquittance, 6 s. 8 d

Entry of writs. FOr entring in a large Book every writ of Covenant fineable, *videlicet*, in the Term-time, 6 d

And in the Vacation, 12 d

License of Alienation. For entring in another Book remaining in the said office, every Docquet upon a license of Alienation in the term-time, 12 d

And in the Vacation, 2 s

For

For every Docquet for a pardon of Alienation in Proces of *Distringas*, or *Scire fac.* 2 s — *Pardon.*

For every writ of entry of lands holden *in capite*, & entred in the same book, 6 d — *Entry of Lands holden.*
And the Vacation, 12 d

FOr indorsing every writ of Entry, 6 d — *Indorsing bre.*
For indorsing every writ of Covenant in Term, 4 d — *Intr. bre.*
In the Vacation, 6 d
For entring unfiled writs, 6 d
For drawing the discharges of Tenures in Parliament, and entring them, 3 s — *disch. of Tenures*

SECT. XXX.

The under-Sheriff of Middlesex *taketh these Fees following in his Majesties Court of Common Pleas.*

FOR a Warrant upon a Cap. for every name 4 d — *Warran.*
For a return of a *Venire fac.* 2 s — *Ret. ven. f*
For a warrant upon a Cap. *ut lagat* 4 d
For return of a *Hab. corp Jurator.* 4 s — *Hab. cor.*
For summoning the Jury, for every name, 4 d — *Sum. Jur*
For a *Cepi corpus*, for every name, 4 d — *Cepi cor.*
For return of an Exigent, for every name, 4 d — *Ret. Exg.*
For return of a Proclamation, 12 d — *Ret. procl*
For return of a *Scire fac.* 2 s — *Scire fac*
For return of a *Nihil habet* on a *Scire fac.* 12 d

SECT. XXXI.

The Warden of the Fleet his Fees.

A note of the Fees due and belonging to the Warden of the Fleet, and under-officers, as appeareth by a Commission under the great Seal of England *from the late Queen* Eliz. *in the third year of her Raign, & confirmed in the 37 year of her Raign, what every several Prisoner in their several degrees ought to pay.*

Commitments.

AN Arch Bishop, a Duke a Dutchess, are to pay for their Commitment-fee to the said Warden and his Officers, having the first Weeks diet with Wine, 21 l. 10 s

Also they are to pay for their Ordinary weekly diet with wine, 3 l. 6 s. 8 d

A Marquis, or a Marquesses, an Earle, a Countess, a Vice-Countess, are to pay for their Commitment-fee to the said Warden and his Officers, having the first weeks diet, 14 l. 11 s

Also they are to pay for their ordinary weekly diet with wine, 2 l.

A Lord Spiritual or Temporal, a Lady, the wife of a Baron, or Lord, are to pay for their commitment-fee as aboveſaid, having the first weeks diet with wine, 11 l. 4 s. 10 d

Also

Also they are to pay for their ordinary weekly commons with wine, 1 l. 6 s. 8 d

A Knight, a Lady, the wife of a Knight, a Doctor of Divinity, a Doctor of Law, or others of like calling, are to pay as aforesaid for their commitment-fee, having the first weeks diet with wine, 5 d

Also they are to pay for their ordinary weekly commons with wine, 18 s 6 d

An Esquire, a Gentleman, a Gentlewoman, that shall sit at the Parlor-commons, or any person under that degree, that shall be at the same commons, are to pay for their commitment-fee as aforesaid, having the first weeks diet with wine, 3 l 6 s. 8 d

Also they are to pay for their ordinary weekly commons with wine, 10 s

A yeoman, or any others that shall be at the Hall-commons, man or woman, are to pay for their commitment-fee, having the first weeks diet, 33 s. 4 d

Also they are to pay for their ordinary weekly commons, 5 s

A poor man in the Ward, that hath part of the Box, is to pay for his commitment-fee, having no diet, 7 s. 4 d

SECT.

SECT. XXXII.

Also there is due to the said Warden 20d per diem, *for the whole day, and* 10d *for every man that he may lawfully license to go abroad.*

Return of Writs. MOreover the said Warden hath for return of writs, as Sheriffs & Bailiffs of liberties have, by which he hath allowance for return of every *Hab. corp.* or Attachment, 2s. 4d

Also for every *Habeas corpus cum causa*, there are fees for returning the causes, *Videlicet*,

For allowing the writ,	2s. 4d
For returning the first cause,	2s
For every execution,	2d
For every action,	12d

Bringing a Pris'ner to th'bar. Which are due to the Wardens Clerks, and 5s. to the Wardens Servants for bringing every prisoner safe to the Bar.

Alowance of superf. Also he hath for allowance of every Superfed. and discharge, 2s. 4d

traveling charges for apprehending parties committed. Also when any man is committed by order out of the Courts of Star-chamber, Chancery, Court of Wards and Liveries, Court of Exchequer, Court of Requeſt, and Court of Dutchy, the Wardens Servants (being sent to apprehend them, and bring them to the *Fleet*, according to the Tenour of their Commitment) have four pence the Mile where they are apprehended,

ded, and 6 d. the Mile back again; and the Clerk hath 2 *s.* for making the writ.

SECT. XXXIII.

A Table of the due Fees of the Protonotaries Court in the Common Pleas.

These are the fees due and belonging to the three Protenotaries of the Court of common Pleas at Westminst. *for Entries of Declarations, Pleas, and Judgments: And also for making and entring of Writs, in their several offices, and for other dues belonging to them, confirmed & allowed by the late King, by his Letters Patents under the great Seal of* England, *dated at* Cambury *the 22 of July, in the 12 year of his Reign, and are mentioned and expressed in a Schedule of Fees to the said Letters annexed, and recorded in his Majesties Court of Common Pleas at Westminster, in the Term of* Saint Michael *next following*, Rot. quinto, sexto, septimo, octavo, nono.

Inprimis, for the entry of every common declaration, common Plea in bar, wherein no freehold is pleaded, common Replication, and Rejoinder in actions personal, 12 d

Common decla. & Plea.

For

Special Narr. in actions personal. For the entry of every special Declaration, special Plea in Bar, or Abatement, Freehold, Replication, or Rejoynder, and Pleas subsequent, in sheets, every sheet containing twelve lines at the least, and every line containing ten words, 2 s

And for every sheet exceeding, 8 d

Special Narr. in special actions. For every declaration in actions upon the case, *Ejectione firme*, account, annuity, conspiracy, covent, deceit, partition, *Plegiis acquiet.* and debt upon Statutes, plaint in Assize, and the like special actions, and in real, mixt and popular actions, if the declaration or plaint exceed not three sheets, 2 s

And for every sheet exceeding, 8 d

Bar in special actions. For the entring of every Bar, Replication and Pleas, subsequent in every of the actions last above recited, and in the like actions, not exceeding three sheets, 2 s

And for every sheet so exceeding, 8 d

Oyer de faits. For the Oyer of every Bill, Obligation, Indenture, Record, or Certificate, or the like, entred *in hæc verba*, not exceeding the length of three sheets, 2 s.

And for every sheet above that length, 8 d

Apparand For recording of every Apparance by the Court, 2 s. 4 d

Recognizan. Chall. For the entry of every Recognizance without condition, Challenge to the Sheriff or Coroners, or to the Array, or other

other ſpecial averments, 2 s

And for the entring of every Recognizance with a Condition, 4 s

For every Judgement in debt, Treſpaſs, or detinue, without a Tales for the Prothonotary, 2 s *Judgem.*

And for entring of every adjournment, 4 d *Adjournments.*

For every Judgement with a Tales, beſides the fee above recited, 2 s. *Judgem.*

For every *Remanet*, and Judgement for coſts given to the Defendant by the Statute, beſides the fee aboveſaid, 2 s *Remanet*

For every Judgement in all other actions, as well perſonal as mixt and real, and prohibitions, and the like, 4 s *Judgements.*

For every ſatisfaction, *Recordatur*, diſcontinuance, *Retraxit*, Relinquiſhment, *Nolle proſequi*, or the like, in actions perſonal, 2 s *Satisfact Recorda. diſcont. Retraxit, Nolle proſequi.*

And in real actions, 4 s

For the entry of a ſingle Recovery, and the Writ of Seiſin thereupon, 10 s. 6 d *Recover.*

And for every Voucher more, 4 s

For the entry of every *Mittimus*, & *Dedimus poteſtatem*, for a common Recovery, 6 s

For the entrance of a Summons *ad Warr.* for a common Recovery, and the writ of Summons *ad Warr.* 4 s. 6 d

For the entry of a *Certiorari* to certifie a warrant of Attorney for the tenant or voucher, 4 s.

And

And if for both, 6 s

Forrain Voucher For every forraigne Voucher sent to the common Pleas to summon the Vouchee, if the Record be not above three sheets, 2 s

And for every sheet more, 8 d

The like fees are to be paid when the Record is remitted back again, after the Voucher determined, 2 s. 8 d

Speeial Verdict. For the entry of every special Verdict, whereupon a *Cur. advisar. vult* is entred, being not above the length of three sheets, written as aboveſaid, 2 s

And for every sheet exceeding that length, 8 d

General Verdict. For the entry of every general verdict, with a *Cur. advisar. vult*, without a Tales, 2 s

And with a Tales, 4 d

Remittitur. For the entry of every remittitur of debt or damages, 12 d

Inform. For the entry of every Information upon any penall Law, and signing the *Subpena* only, 2 s. 8 d

Prohib. For the entry of every surmise for a Prohibition to be granted, not exceeding the length of three sheets, as aforesaid, 2 s

And for every sheet above that length, 8 d

Proof de ſuggeſt. For the entry of the Oath of every witness to prove the surmise in a Prohibition-

bition, or *Audita querela* brought by an *Infant*, and the entry of the proofs *de morte & vita virim*, dower, and the like actions and suits, 2 s

For the releasing of any default in any real action, 2 s

And entring the recital of the grand Cape, 4 s

And if under five marks, *Nihil.*

For examining every Record of *Nisi pri.* 12 d *Exam. record.*

For making the Record for tryal of an issue in any of the County Palatines, for the first three sheets, 2 s *Record in coun. palatine*

And for every sheet more after, 4 d

For the Exemplifying of any Record, not exceeding six sheets, 5 s *Exemplificat.*

And for every sheet exceeding that rate, 8 d

For the entring of Seisin in dower, and dying seised, the return of the Seisin exceeding not above three sheets, 4 s *Seisin in dower*

For every sheet exceeding, 8 d

For entring of Writs of Exemption *de non ponend. in jurat.* and patents, *de libertat. allocand.* and Protections, cognizance of Pleas, and the like, according to the rates aboveſaid, if they exceed not three sheets, 1 s *Non ponend. in assis. Cogn. de pleas.*

And for every Sheet exceeding, 8 d

For

Judgement per default in waſt. For the entring the default upon the diſtreſs in waſte, *Quare impedit*, & the like, and Judgement thereupon, if the title or count do not exceed three ſheets, 6s. 4d

Quare impedit. And if it be more then as aforeſaid, for every ſheet, 8d

Quo warranto For entring of a *Quo warranto*, if it exceed not three ſheets, 2s

For the entry of every Plea thereupon, according to the ſame rate before, 2s. 8d

Account before Auditors. For the entry of a Plea of Accompt pleaded before Auditors, if it be not above three ſheets written as aboveſaid, 2d

And if more, for every ſheet exceeding, 8d

Severances Aide Prayer. For the Entry of every Summons, and Severance, and Aide Prayer, 2s

For the admiſſion of an Infant to his *Procheine amie*, or Guardian, 2s

And if it be by commiſſion, 4s

For entring of the defendants diſcharge upon a *Cap. pro fine*, or for a contempt, 2s

For the like upon Reſcous returned, and admitted to his fine, 4s

For traverſing of a Reſcous, and Iſſue thereupon, 6s

For entring of the allowance of every generall and ſpecial pardon of Outlawry before Judgment, and after, 5s. 4d

For entring of a *Dies dat.* in Debt, detinue and treſpaſs, 12d

And

And in all other actions, 2 s

For the entring of the Receit of a feme-covert, Tenant in tail, Leſſee for years, or the like, 2 s

And for the entry of the plea, if it exceed not three ſheets, 2 s

And for every ſheet exceeding, 8 d

And if the Receit be by Writ, then more for entring of the Writ, 2 s

For the entring of an Aſſize delivered in the common Pleas by Juſtices of aſſize to be inrolled, for every ſheet 12 d

And if the Aſſize come into the common Pleas by Certiorar. then more for entring the Certiorar. 2 s

For the entring every abridgement of the demand in dower, aſſize, or the like, 2 s *Abridg.*

For the entry of every *Pone* to remove a Plea by Writ out of the County-court there holden by Juſtices, and for the return of the *Pone*, 4 s *Pone.*

For the entring of any Record ſent in the common Pleas by *Mittimus*, or otherwiſe; and likewiſe for the entry of every *Rege inconſulto*, or ſuch like, if it exceed three ſheets, 2 s *Mittimus* *Rege inconſulto.*

For every ſheet ſo exceeding, 8 d

For the entring of every Certificate of Baſtardy certified by the Biſhop, and the awarding of the Writ and Judgement thereupon, 6 d *Certificate of baſtardy.*

For entry of the Licenſe of the Court,

Journies accompts. to purchase a new writ by Journies accompts, 2 s.

Delivery of Records For the entry of every Original Writ delivered of Record in real or mixt actions,

Challenge. For the entry of every sheet above three sheets of every challenge to the Sheriff or Coroners, or to the Array, or other special averments, or the like, 8 d

Remanet. For the entry of every *Remanet* in real Actions, 4 s

For the entry of every *Remittitur* in real and mixt actions, 2 s

Aid Pryer For the entry of every sheet above three sheets of every ayd Pryer, 8 d

Admission Guardian. For the entry of an admission of a Guardian, if it be by Commission and *Mittimus*, 6 s

Privy Seal. For the entry of a Privy Seal, for every sheet, 8 d

License. For the entry of the License of the Court to compound upon penal Statutes, 2 s

Warrants of Attorney. For entry of every warrant of Attorney made by the Tenants in common Recoveries, or the like, after their appearance at the Bar, 2 s

Qua. Imp. For every judgement by special confession of the title in *Quare imp.* or the like, if it exceed not three sheets, 4 s

And for every sheet after, 8 d

Special Imparlance. For the entring of every special imparlance, 2 s.

For

For the entring of every Committitur of a Prisoner by the Roll, being brought to the Bar by Writ, and every tender of the body in discharge of the Bail, 2 s *Committitur.*

But if it be without Writ, then either Case but 2 s

For entring of every demand of a Prisoner to appear and remand the said Prisoner, 4 s *Remand.*

For the entry of every Essoyn in the Plea-rolls, as upon Wagers of Law, 12 d *Essoyn.*

For entry of the Bail upon every Reversal for insufficiency of Exigent, or of the Return, 2 s. 4 d *Bail.*

For the entry of every declaration in debt upon demise, or the like special Declaration, if the Declaration exceed not three sheets, 2 s *Nar. sur demise.*

And if such Declaration exceed the number of three sheets then for the entry of every such sheet containing twelve lines, and every line ten words, 8 d

For the entry of every several Count upon an Original in Debt, Detinue, Trespass, and the like, 12 d *Common Decla.*

For the entry of every several Count in Actions upon the Case and Account, and the like, upon several days, if the Count exceed not three sheets, 2 s *Actions on the case. Accounts*

And for every sheet so exceeding, 8 d

For the entry of every special condition. *Special condition.*

on, or indorſment of any obligation entred in *hac verba*, not exceeding the length of three ſheets, 2 s

And for every ſheet ſo exceeding, 8 d

Common condi. But if the condition be in debt for payment of money at one day, or under the length of two ſheets, then for the entring thereof but 12 d

Mittimus Certiorari. For the entry of every *Mittimus* or *Certiorar.* and the return thereof, 4 s

But if the return thereof exceed three ſheets, then for every ſheet ſo exceeding, 8 d

Prihibit. For entring of the Court in a Prohibition, and pleadings thereupon after an appearance of the Defendant, not exceeding the length of three ſheets, 2 s

And for every ſheet above that length, 8 d

Attaint, falſe Judgement. For the entry of every Writ of Attaint, or falſe Judgement, 2 s

For the entry of the return thereof, and the aſſignment of *Errors*, or falſe Oaths, not exceeding three ſheets, 2 s

And for every ſheet more, 8 d

Proof in a Prohibit. For the entry of every ſheet above three ſheets of the Oath of every witneſs examined to prove the ſurmiſe in a Prohibition, or *Audita querela* brought by an Infant, and the entry of the proofs *De morte & vita viri* in dower, and the like actions and ſuits, 8 d

Audita querela, And Dower.

SCET.

SECT. XXXIIII.

Fees due to the Prothonotaries for Writs, and the entries of them amongst other dues.

Fees for Writs.

FOr every Writ of Prohibition or consultation, not exceeding four sheets, 2 s *Prohibit.*

For every sheet so exceeding, 4 d

For every Withernam, return. *habend.* after appearance, second deliverance, Writ of priviledge, *Habeas corp. Procedend. Certiorari*, summons & resummons, *Petit. cape, ve. fac. sci. fa. Elegit, extent, super s. Sub-pœna*, Writ to the Bishop, Attachment in Ass. *Distrin. jur. habeas corpus*, and *Distringas* in Ass. & attaint, and the like *habere fec. Possessionem*, Writs of view, *Mittimus, Idemptitat. nois.* and every other special Writs, 12 s *Withernam. Habeas corpus. Sum. & al. bre. Spenal.*

For entring of every such Writ, which requireth an entring, not exceeding four sheets, 2 s *Entry of Writs.*

And if more, for every sheet as above-said, 8 d

For every *Ca. sa. & Fi. fa.* 6 d *Ca. sa. fi. fa.*

For every *Testat. sur ca. sa. & Fi. fa. distringas ad deliberand.* and Writs to inquire of damages in trespass and Replevin, 12 d *Testat. distr. enqui. in. tras.*

For VVrits to inquire of damages in Cove- *Inqui. in casu.*

Covenant, Ejectment, actions upon the case, and the like, 2 s

For every *Capias pro fine* 6 d

Cap. & Exi. pro fine. For the *Exigent*, upon a *Capias pro fine*, 10 d

Intrae. Retor. Bri. For the entry of the Return of every Writ in the Prothonotaries Roll other than the *Ca. ja.* return'd *non est invent.* and the *Fi. fa.* returned *nulla habet bona*, whereupon further p ocess is awarded, not exceeding four sheets, 2 s

And if more, then for every sheet 8 d

Bail sur. priv. Habeas corp. For the entring of every Writ of Priviledge, or *habeas corpus*, with the Bail for one cause 6 s

And for every name more, 2 s

Committitur. For entry of every *Committitur* upon a *habeas corpus una cum die & causa*, 2 s

Reversal. For every other cause, 2 s

For every Reversal upon an Outlawry for default of Proclamation, with one name, and the Bail or *nolle prosequi*, 4 s. 4 d

And for every name more, 2 s

Ca. sa. & pt. Devastavit. For every *Ca. sa. & Fi. fa.* after a *devastavit*, 2 s

Whereof by allowance from the Prothonotaries the Clerk hath had 8 d

Inquir. in casu, &c. For every sheet exceeding four sheets of Writs to inquire of Damages in Covenant, Ejectment, Actions upon the case, and

and the like actions 4 d

For the Writ of Libertat. or the like special Writs, 2 s *Libertat.*

Whereof by allowance from the Prothonotary the Clerk hath had 8 d

For the entry of every such Writ, and the entry of every other special Writ which requireth an entry, not exceeding four sheets, 2 s *Entr. con. Bri.*

And for every sheet so exceeding, 8 d

For every *Distringas* in detinue, 12 d *Distringas.*

Whereof the Clerk by allowance from the Prothonotary hath had 4 d

For Writs to enquire of Damages in Covenant, Ejectment, actions upon the Case, and the like Actions, if they exceed not four sheets, 2 s *Inquire in case, &c.*

Whereof by allowance from the Prothonotary the Clerk hath had 8 d

For the entry of every *Committitur*, upon a *habeas corpus una cum die & causa*, with one cause returned, besides the entry of the Writ, 2 s *Committitur.*

And for the entry of the Writ, 2 s

And for every other cause returned, 2 s

For the signing of all proces upon information, excepting the first *Subpœna*, 1 s. 4 d *Proces. sur. Informations.*

SECT. XXV.

The Prothonotaries Clerks Fees.

Copies. IN *primis*, for the copies of common declarations and pleas, for every sheet containing twelve lines, and every line ten words, 4 d,

For every sheet in real and mixt actions, and actions upon any Statute, and the like, 8 d

Draughts. For drawing of every special declaration and plea, for every sheet 8 d

Continuance. For every continuance every Term of every issue-writ, *imparlance*, *demurrer*, of special verdict, or adjournment, 4 d

Exemplification. For exemplifying every Recovery with a single voucher, 4 s. 6 d

For exemplifying of a double voucher, 6 s

And for every voucher more, 12 d

For exemplifying of any record, not exceeding eight sheets, 5 s

And for every sheet more, 6 d

Draw. of writs, & entries thereof. For drawing of every extraordinary long writ, after the rate of every sheet, 8 d

And for the entry thereof (if it be so required) for every sheet, 4 d

Copies of Judgements. For a copy of a Judgement, for every sheet, 4 d

Entries in remem. For the entry of every writ, and the Return

Return thereof into the Prothonotaries Remembrance for drawing up of a judgement, if it exceed not three sheets, 6 d

And for every sheet after, 4 d

For entring of every common Rule into the bill of pleas, or common Remembrance, 4 d *Rules.*

For the entring and ingrossing every Summons for a Recovery, and for the making of the writ of Summons, 2 s *Sum. for recoveries.*

For entry of every *Mittimus* and *Dedimus potestatem* for a Recovery, 2 s. 6 d *Mittimus*

For the ingrossing of every *Nisi prius*, after the rate of every sheet 4 d *Ingro. nisi prius.*

For entring of every *Testat. sur ca. sa. & fi. fa.* 4 d *Intir. case testat.*

For the search in every Term in the Prothonotaries Office in his doggers, or Remembrances, 4 d *Search.*

For the issuing out of the Court-money, of the party receiving it, 1 d. in *l.* *Court-money.*

For the making of every long writ, as Prohibitions, and the like, for every sheet, 4 d *Mak. long Writs.*

For the prosecution and issuing out of proces for the King to bring in the party for to make fine for his contempt until the party render himself, or be Outlawed, besides the fees of the Court, 3 s. 4 d *Cap. pro fine.*

And if there be cause of prosecution after the *Exigent* returned, then more, 3 s. 4 d

For

Copy ſuggeſt. For the copies of ſuggeſtion to grant a Prohibition, for every ſheet, 8 d

Tract. Prohibit. ſpecial ver. &c. For drawing of every ſurmiſe to have a Prohibition, ſpecial verdict, and the like, for every ſheet, 8 d.

SECT. XXXVI.

The Prothonotaries Clerks Fees for Information onely.

Information. FOr ingroſſing of every information, 8 d

For a copy of the ſaid Information, if it amount to the number of five ſheets of paper, or upwards, 3 s. 4 d

If it be under the number of five ſheets, then for every ſheet 8 d

For the making of every *Capias pro fine* upon an Information, 6 d

For entring of the general iſſue upon the Roll where the Information was firſt entred in the Term it was firſt exhibited, 8 d

For the Regiſtring of every Licenſe to compound in the Office-book, 4 d

An ancient fee due to the ſecond Prothonotaries Clerks onely.

Fines. FOr recording of every fine acknowledged at the bar, by Writ, and moved by a Serjeant, 4 d

SECT.

SECT. XXXVII.

Fees due to the Secondaries of the Prothonotaries in their ſeveral Offices. *Secondaries fees*

FOr the copy of every common Rule, 4 d *Copies of rule.*

For taking a note of the Rule of the Judges in Court upon a motion of a Serjeant; for drawing the ſame Rule in paper in Latin words, and entring it into the bill of Pleas, and the copy thereof, the draught not exceeding ſix lines in paper, 8 d *Draw. & entring of Rules.*

If the Rule exceed ſix lines, then 12 d

For every wager of Law in Court, or Non-ſuit of the Plaintiff upon a wager of Law, 12 d *Wag. of law.*

For the entry of the *Committitur* of any Defendant to the Fleet in Execution of any Judgement, or otherwiſe in Court, and for making a copy thereof for the warden of the Fleet, containing the cauſe of the commitment, 12 d *Committitur.*

For the entring of every commitment to the Fleet of any perſon yeilding himſelf in diſcharge of his Bail, and for the like copy, 12 d

For attending the Judge from his chamber to *Weſtminſter*, to take a privy verdict tried at the bar, 3 s. 4 d *Privy ver.*

For reading the record of a demurrer in Court, or verdict, 12 d *Rec. Record.*

For

Bails. For taking bail in Court, 12d

Admiss. to Guardians. For entring of an admission of an Infant to his prochin Amy, or Guardian, in the Prothonotaries remembrance, 12d

Cop. of issue and Jurors names. For the copy of the Issue and Jurors names to be delivered to the Jury upon any tryal at the Bar, 12d

Tryal at Bar. For reading of evidences upon tryals at the Bar of each Party, Plaintiff and Defendant, 3 s. 4d

Satis. Recor. Discontinu. For entry of every satisfaction by special warrant, *Recordatur*, and discontinuance, 8d

Satisfaction. For every satisfaction by general warrant, 4d

For entry of every Will or Letters of Administration to inable an Executor or Administrator to acknowledge satisfaction, and the entry of the satisfaction, 12d

Interrogatories For every copy of Interrogatories, depositions of persons examined upon Interrogatories by order of the Court, for every sheet, 8d

Per breve de Privato sigillo,
Wolseley.

THE

THE SOLLICITOR IN THE Kings Bench.

CHAP. XIII.

SECT. I.

The proceedings in the Kings Bench as now it consists.

BEfore the Norman Conqueſt, as I have ſaid before, there was onely one high Court, for Law and Equity; which then followed the King himſelf, and is therefore to this day called the Kings Bench. For although there be ſince that time, many peculiar high Courts advanced, by reaſon of the multitude of ſuits ſtill increaſing with the Iniquity

quity and age of the world; would not suffer them to be all decided in one place, without tedious and intollerable delay of causes, to the great vexation of men. This made the Princes follow the counsel of *Jethro* the Father-in-law of *Moses*, the burden of suitors growing too numerous, to divide themselves, as a great river into smaller rivolets, as you may perceive if you throughly observe the matter and subject of all these Courts, and the method of their proceedings, they are, as it were, but so many *Branches*, sprung out of that one tree, or streams derived from the same spring and fountain.

And when the Court of the Kings Bench was left to it self, the King no longer frequenting the same in person, then did the authority of the Chief Justice of *England* cease and decline from that Original greatness formerly they had; and was restrained by a form of *Patent*, (as now it stands) *ad placita coram nobis tenenda*; which is an ordinary and limited jurisdiction.

But the Court of the Kings Bench, as now it stands, consists of the *Prothonotary* side, for civil personal actions between party and party; and the Crown-side, for indictments, inquisitions, presentments, and all pleas of the Crown, touching matters capital or criminal.

The chief or supream Officer of this Court, is the Lord chief Justice, being assisted with three other Judges.

The Subordinate Officers are

The chief Clerk, *Prothonotary*, or Master of the Kings Bench-office, for actions between party and party; for the most part personal, and some mixt: he

he hath a Secondary who executes his office; and the Clerks of his office, who are the proper Attornies of that Court, draw and enter all Declarations and Pleadings, and other proceedings upon Records, and are accountable to him for the same.

He hath also his Deputy, who keeps the stamps for the signing of Writs: who signs all *Latitats*, which is the first Writ whereby they begin any suit: he signs also Writs of *Alias* and *Pluries*, *Capias*, *Elegits*, *Habeas corpus*, *Procedendo*, *Habere facias possessionem*, *Certiorare*, *Distringas ballivo*, *Distringas super vic. Return. habend Capias in Withernam*, second deliverance, and some others: he also keeps the Remembrances of all Records, whereby you may finde out any Record with little trouble, especially if you know the Term when it was entred, and the Attornies name. And also all writs returned, and *Postea's*, and writs of Error are kept and filed in his Office; and also common Bails, and special Bails, after they are accepted by the Plaintiff or his Attorney, are also filed and entred upon Record in his office.

The next Officer of this Court is the *Custos Brevium*, whose office it is to file all Original writs and other writs, wherein you proceed against any Person to the Outlawry: he also makes up all Records of *Nisi prius* for tryals at the Assize; and keeps several Clerks under him, who write the same: but most usually the Attorney for the Plaintiff, or the Defendants Attorney, if you go to tryal by Proviso, ingross their Records themselves, whereby they sooner dispatch their business, paying for every Press, which is to contain sixty lines, 6 *s.* 6 *d.*

The Secondary to the Prothonotary, whom the Clerks call the Master of the Office, he always attends the sitting of the Court, for to examine business which is referred unto him by the Judges; and afterwards

wards makes his report thereof how the case stands: he signs all judgements, and taxes costs thereupon, and gives all Rules to answer and reply: and for Tryals by Proviso, and many other; and usually resolves all doubts and questions of the Attornies: and if any difference arise between any of the Attornies or Clerks, about matter or practice; it is usual with them that are fair practicers to refer the matter unto him to determine, and not to trouble the Court with unnecessary motions, and put their Clyents to charges, which may that way be saved.

The Clerk of the papers, who makes up all special Pleadings and Demurrers, which the Plaintiffs Attorny most commonly speaks for; and afterwards his office is to give a rule upon the side of the Paper-book, for the Defendants Attorney to bring the same to him again to be entred in four days, or else Judgement to go by default.

The Clerk of the Declarations, who keeps the files of declarations; and with him all declarations are filed after they are Ingrossed in Parchment, and continued on the back from the Term you declare till issue joyned.

There is also an Officer who keeps the Signe and Seal for the bills of *Middlesex*, who keeps a book, where he enters the Plaintiffs and Defendants names in all such writs; and there the Defendants in bills of *Middlesex* enter their appearances, so that there you may search for any writ taken out, or appearance entred.

The Clerk of the rules, whose office is to attend the Court, and take notes of all rules and orders that are made in Court, (except those which belong to the Crown-office,) and afterwards draws up the rules, and enters them in a book at large, for which he hath eight pence, and for the copy of every rule, four

four pence, if it be of the ſame Term; otherwiſe it is eight pence: he alſo files all Affidavits that are uſed in Court, and hath the benefit of making copies of them, for which his Fee is four pence *per* ſheet; and with him are given all Rules of courſe, as Rules upon a *Cepi corpus*, *Habeas corpus*, for a *Procedendo*, *Poſtea's*, writs of inquiry, and the like.

Philizers are in this Court alſo, one for each County in *England*: who make the mean proceſs after original in proceeding to the Outlawry, as the *Capias*, *Alias*, *Pluries*, &c. And they have the benefit of all writs belonging unto them, and entries thereupon, allowing the Prothonotary nothing for the ſame.

The Marſhal of the Kings Bench hath the cuſtody of all Priſoners who are committed by the Court; and every one that is ſued in the Kings Bench, is ſuppoſed to be in cuſtody: So that they ſay in their declaration, *A. B.* the Plaintiff *Queritur de C. D. in cuſtode Marreſcalli Marreſcalſie Domini Regis coram ipſo Rege apud Weſtmin. exiſtent.* &c. always ſuppoſing in their declaration that the defendant is in priſon, *viz.* in the cuſtody of the Marſhal of the Kings Bench; for if a man be arreſted in any City or County, and remain in priſon there for want of Bail, you cannot declare againſt him, unleſs you remove his body to the Kings Bench by *Habeas corpus*.

The Marſhal either by himſelf, or his Deputy, or Servants, always attends the Court, to receive priſoners committed to their cuſtody.

The Clerk of the Errors allows all writs of Error, and makes *Superſedeas* thereupon, into what county you pleaſe to have them, as the Clerk of the Errors in the common Pleas doth; and tranſcribes the Records into the Exchequer-chamber.

The Cryers always attend the Court, either to call

Non-suits, give Oaths to witnesses, Jury-men at tryals, and do such other business as the court shall direct: and at the end of every Term they do attend the Court.

There is also a Porter, who is to bring the Records into the Court, when they are there to be used.

This Court of the Kings Bench, holds plea in all actions of debt, detinue, covenant, account, and all actions upon the case, either of promises, or for scandalous words, or for special Nusance, *&c.* Trover and conversion, and many of the like nature.

SECT. II.

How to commence a suit in the Kings Bench.

THeir leading process is a bill of *Meddlesex* in the county of *Middlesex* onely, if the defendant live or can be arrested in that county; but if the defendant be to be arrested in any other county, then their first writ is a *Latitat*, and after that an *Alias* and *Pluries cap.* if the defendant cannot be taken by the first writ.

This bill of *Middlesex*, is in the nature of an original to the *Latiat*, for in their *Latitat* they always feign a bill of *Middlesex* to be first returned *Non est inventus* by the Sheriff of *Middlesex*, and that the defendant *Latitat, vagatur, & discurrit* in that county to which the *Latitat* is directed.

The form of the bill in Middlesex, *is thus:*

Midd. ss. Precept. est Vic. quod Capiat *A.B.* si, *&c.* Et eum salvo custod. ita quod habeat corpus ejus coram Domino Rege apud Westmin. die Lune prox. post tres septimanas S. Machaelis, ad respondend. *R. S.* de placito transgr. per Bill. *Henly.* The

The Latitat.

Carolus Secundus &c. Vic. Southt. ſalutem. Cum nuper præcipimus Vic. noſtri Midd. quod capiat A. B. & C. D. ſi invent. fuer. in balliva ſua, & eos ſalvo Cuſtod. ita quod habeat corpora eorum coram nobis apud Weſtm. die Mercurii prox. poſt tres ſeptimanas S. Trinitatis, ad reſpondend. R. S. de placito tranſgreſſionis; & idem noſter Vic. Midd. ad diem præd. nobis mand. quod præd. A. & C. non ſunt invent. in balliva ſua, cum ex parte præd. R. in curia noſtra coram nobis ſufficienter teſtat. ſit quod præd. A. & C. latitant, vagant, & diſcurrunt in balliva tua: præcipimus tibi quod capias præd. A. & C. ſi invent fuer. in balliva tua, & eos ſalvo cuſtod. ita quod habeas corpora eorum coram nobis apud Weſtm. die Lunæ prox. poſt tres ſeptimanas S Michaelis, ad reſpondend. præfat. R. de placito præd Et habeas, &c.

This was the ancient form, which ſerved as a cure for all diſeaſes: ſo did this Writ in all caſes, never expreſſing any cauſe whatſoever, but only Treſpaſs, until by a late Act of Parliament it was ordained, That no Writ of Treſpaſs ſhould hold to the Defendant to any Bail, any further then an appearance: and every Writ ſhould expreſs the cauſe of action, as the Common Pleas Writs do, & all other proceſs ought to do.

Since they have in their Bill of *Middleſex*, and alſo in the *Latitat* and *Alias*, *&c.* added an *ac etiam*, after the *de placito trangreſſionis*, comprehending the ſpecial matter, or cauſe of action; in this form: *Ac etiam bille præd. quer. verſus præd. A B. pro 20 libris de debito ſuper obligationem, ſecundum conſuetudinem cur. noſtre præd. exhibend.* Or if it be any other ſpecial action, or matter requiring good Bail, they recite it in the Writ, as, *Ac etiam bille pro quinquaginta libris ſuper aſſumptionem, vel promiſſionem convent.*

fract. or the like, as the nature of the action requires; specifying the case, that to the Sheriff may take Bail accordingly. The form of the *Alias Capias* in the Kings Bench, if the Defendant be not taken upon the *Latitat*, is this.

Carolus secundus, *&c.* Vic. Southt. salutem. Præcipimus tibi, sicut alias præcipimus, quod capias *A.B.* si invent fuerit in balliva tua, & eum salvo custod. ita quod habeas corpus ejus coram nobis apud Westm. prox. die Mercurii post tres septimanas sancti Michaelis, ad respondend. *C.S.* de placito transg'. (Ac etiam bille, *if the case require it.*) Et habeas, *&c.*

The form of the *Pluries Cap.* is the same, only altering the word *Alias* into *Pluries.*

These Writs you may renew every Term, until the Defendant be arrested. But if the *Latitat* remain unrenewed for five Terms after you have taken it out, then you must have a *Latitat de novo*, for that you cannot renew the old one.

If any of the Defendants in one of these processes dwell within a Liberty, where the Sheriff cannot enter, and upon a Warrant from the Sheriff, directed to the Bailiff of that Liberty; if the Bailiff execute it not, you must get the Sheriff to return *Mandavi Ballivo* to your process; and upon that the course is to have a *non omittas, propter aliquam libertatem*, &c. and upon that, the Sheriffs Officers may enter and execute the Warrant.

When upon a bill of *Middlesex*, *Latitat*, or any other Writ, the Defendant or Defendants be arrested, and have entred into Bond to the Sheriff for their appearance according to the return of the Writ; then if the party or parties do not appear at the return of the Writ, you must call to the Sheriff for a return

return of the Writ; and upon a *Cepi Corpus* returned, if the party do not appear at the return, you may give the Sheriff a Rule to bring in his Body on pain of forty shillings, &c. And then if he appear not, you may have a *Habeas Corpus* upon the *Cepi corpus*, which costs two shillings four pence. And if the Sheriff will not return this Writ of *Habeas corpus*, you may amerce him as before; or if he return *Languidus in prisona*, you may have upon that a *duces tecum licet Languidus*, &c.

At the return of all or any of these, you may amerce the Sheriff, and he shall pay it, after those Rules given in the Kings Bench.

If you will estreat your Amerciaments into the Crown-Office, the charge of every Rule estreated is two shillings four pence: and in this course you may both amerce the Sheriff, and prosecute till such time as he doth appear: but if there be any great amerciament, the Defendant will appear, to save himself from the Sheriffs Bond; and after the amerciaments are returned into the Crown Office, if they be not certified and returned into the Exchequer, which is once in every half year: where they are estreated before that time, if you be sued upon the Sheriffs bond, you may upon motion of the Court, if the Plaintiffs Attorney (to whose Client the Sheriffs bond is commonly assigned,) will not consent otherwise, that you are contented to appear as of the same Term the first Writ was returnable, and to accept of a declaration, and not to delay the Plaintiff in his suit; the Court will usually order the suit upon the Sheriffs bond to stay: or if the amerciaments be estreated, then upon the same offer, and also to take off those amerciaments, the Court will order the like.

The manner of appearing in the Kings Bench, is to file a Bail, written in Parchment with the Master

of the Office, the form whereof is as follows, *viz.*

If it be a common Bail, thus:

Southt. ſſ. A. B. de H. in Com. præd. Yeoman, traditur in ballium ſuper Cepi corpus,
T. R. Johanni Doe *London*, Yeoman, *&c.*
Att. Richardo Roo de eadem, Yeoman.

Ads. C. L.

If you put in ſpecial Bail upon a *Habeas Corpus*, then thus.

A. B. (naming the Defendant) *traditur in ballium* to ſuch perſons are the Bail, naming them and their additions and place of abode, (inſtead of *John Doe* and *Richard Roe*) at the ſuit of the Plaintiff in the Plaint, not naming the Defendant, as you do in the common Bail: which Bail after it is accepted, muſt alſo be filed with the Maſter of the Office.

SECT. III.

What caſes require good Bail in the Kings Bench.

IF the Defendant be indebted to the Plaintiff, by Bill, Bond, or otherwiſe, to the value of ten pounds or above, you may require, and ſtand upon good Bail, and force the Defendant to it.

But if it be in any action of the Caſe for words, though you are like to recover great damages, and the Defendant be nothing worth, you cannot hold him to good Bail, unleſs in ſome ſpecial caſe the Court order it.

Neither

Neither is good Bail requirable in *Ejectione firmæ*, nor in an action of Treſpaſs, unleſs the Court order it in ſome ſpecial caſes.

There is no good Bail required againſt Executors nor adminiſtrators, in any action brought againſt them, except direct proof be made that they have waſted the goods of the Teſtator.

If a defendant put in Bail in the Kings Bench, either common or ſpecial at the ſuit of another, any ſtranger may upon this Bail, put in a declaration of the ſame Term the Bail was put in; which practice is not uſed in the common pleas: but the plaintiff at whoſe ſuit the defendant was arreſted, may declare the ſecond Term after the defendants appearance upon the Bail, and may upon one appearance put in as many Declarations as he will.

But although a ſtranger may declare upon the defendants appearance upon any Bail, whether ſpecial, or common; yet that ſpecial Bail ſhall be but common Bail to him; ſo that he ſhall take no benefit thereof, although he declare the ſame Term that the Bail was put in.

If a defendant appear in the Kings Bench, in *propria perſona*, the plaintiff muſt declare within three days, or elſe he will have coſts againſt him.

When the plaintiff hath declared, if his Clerk do not call for anſwer, nor enter the action within three Terms after the appearance of the defendant, the plaintiff may be non-ſuited, and the defendant recover coſts againſt him.

And if you arreſt one in the country, upon mean proceſs, and he remain in the County-Gaol three Terms for want of Bail, and you remove him not unto the King Bench, where he muſt be, before you can declare againſt him; the party ſo in priſon may be diſcharged by *Superſedeas*, filing common Bail.

He may by the new Rules be discharged in two Terms, if he be not removed, if not of course, yet I am sure upon motion.

SECT. IV.

How to proceed to Declaration after appearance in the Kings Bench.

THeir manner of proceeding in the Kings Bench is somewhat different in respect of the delivery of their declarations, from that in the common Pleas.

The Clerks of the Office, who are the proper attornies, and the attornies at large in their names, draw their declarations; their forms are after this manner, different from the common Pleas: for in the common pleas they write the original writ, but in the Kings Bench, they say the plaintiff complains against the defendant, in custody, *&c.* as you may see by these presidents.

A Declaration in Debt in the Kings Bench *for a Horse to be paid for on the Plaintiffs day of Marriage.*

Suth ff *K.L.* quæritur de *J.R.* in custode Marreschalli Marreschalsie Domini Regis coram ipso Rege apud *Westm.* existente, de placito, quod reddat ei quadraginta solidos quas ei debet, & injuste detinet pro eo, videlicet, quod cum prædictus *I.R.* (tali die & anno) apud *C.* emisset de eodem *K.* unum Spadonem, pro quadraginta solidis, solvend. eidem K. super diem Maritagii ipsius; idemque *K.L.* in facto dicit, quod

quod Maritagium ipſius *K. L.* cum quadam *A. H.* modo uxoris ipſius *K. L.* habitum & celebratum fuit apud *C.* præd. (tali die & anno) tunc prox. ſequen. per quod actio accrevit eidem *K.* ad Exigend. & habend. de præfat. *I. R.* predictos 40 *s.* præd. tamen *I.* licet ſepius requiſit, præd. quadraginta ſolidos eidem *K.* nondum ſolvit, *&c.*

For Nurſing the Defendants Childe, a Declaration.

S. ſſ. *A. B.* queritur de *C. D.* in cuſtod. Mar. *&c.* de placito, quod reddat ei triginta libras legalis monete *Angliæ*, quas ei debet, & injuſte detinet pro eo, videlicet, quod cum prædictus *C. D.* primo die *Septembris*, anno, *&c.* apud *M.* poſuiſſet quendam *D. D.* filium ſuum cuidam *Elizabetha B.* uxori præd. *A B.* ad lactand. nutriend. & cuſtodiend. ceteraque quæ ad officium nutricis incumbent, in hac parte faciend. ac præd. primo die *Septembris* per magnum tempus, videlicet, per unum annum integrum, & tria quarteria anni extunc prox. ſequend. capiend. pro premiſſis de præfat. *C. D.* pro qualibet ſeptimana durante termino illo, ſex ſolidos: & licet predicta *Elizabetha*, omnia & ſingula premiſſa per tempus prædictum bene & fideliter fecerit, prædictus tamen *C. D.* prædictos ſex ſolidis ſeptimanatim, quorum denariorum ſumma per tempus præd. ſe attingunt ad præd. triginta libras, idem tamen *C. D.* licet ſæpius requiſit, nondum ſolvit, *&c.*

A Preſident of an Action of the Caſe brought againſt a Maliſter, by a Brewer, for ſelling him corrupt and unwholeſome Malt.

Liſt. *A.B.* queritur de *H. P.* generoſo in Cuſtod. Mar. *&c.* pro eo videlicet, quod cum idem *A.* (tali die & anno) ac per magnum tempus, tunc ult. elapſ. fuiſſet Pandoxator Cerviſie lupulate apud *F.* in dicto com. Lincoln. ac bonam & ſalubrem cerviſiam lupulat. de bono & ſano braſio, per totum tempus prædict. confeciſſet, & diverſis ligeis & fidel. ſubdit. dicti Domini Regis tam in Suburbiis Civitat. *Lincoln.* quam in diverſis villar. prope *L.* prædict. inhabitant. & familiis habentibus per tempus præd. vendidiſſet & utteraſſet: ac eo pretextu idem *A.* diverſa boni lucra, & proficus per venditionem & utterationem hujuſmodi ſalubris & bone Cerviſie lupulat. per ipſum de bono & ſano braſio confect. & pandoxat. erga victus ſui *manutentionem*, lucrat. & adept. fuiſſet. Cunque etiam prædictus *H* (præd. tali die & anno) apud *F.* præd. in com. præd. & antea fuiſſet & adhuc exiſtit, Commonis Braſiator, Anglicè *a Maliſter*, ac Braſium per idem tempus cuicunque Braſium emere volent. vendidiſſet: ac etiam cum præd. *H.* (præd. tali die & anno) apud *F.* pred in com. pred. barganizaſſet 200 quarteria boni, ſani, & merchandizabili braſii ad cerviſiam lupulat. cum eodem braſio conficiend. eidem *A.* deliberand. apud quandam Wharffam vocat. P. in com. *S.* ad talia tempora qualia idem *A.* prefat. *H.* ad eand. mitteret eodem. Idem *A.* ſolvend. prefat. *H.* pro quibuſlibet 20 quarteriis braſii predict. Anglicè *for every ſcore of Malt*, ſic ut preſertur barganizat. & deliberand. 23 libras legalis monete *Angliæ*, in toto ſe attingen. ad ducentas & triginta libras, unde 200 *l.* per ipſum *A.* ſolut.

ſolut. ſorent præfat. *H.* ad manus ante Nundinas de S. Anglicè *before Sturbridge-Fair* tunc prox. ſequen. Et in partem performationis barganie ſue, præd. idem *H.* deliberavit eidem *A.* 125 quarter. merchandizabilis braſii, videl. apud *W.* præd. Idem tamen *H.* malitioſe machinand. & fraudulent. intend. ipſum *A.* callide decipere & defraudare pro reſid. barganie præd. braſii præd. poſtea, ſcilicet, ult. die *J.* anno, *&c.* ſupradicto, & viceſimo die *O.* prox. ſequend. apud *W.* præd. deliberavit eidem *A.* 75. quarter. mali & corrupti braſii, al. parcelle præd. 200. quarteriarum braſii præd. ut prædict. mittitur barganizat. idem *H.* adtunc ſciens eadem 75 quarter. braſii al. parcel. eorund. 200 quarter. braſii eſſe inſalubere & corrupt. idem *A.* minime ſciens corruptionem eorund. 75. quarter. braſii ſic ut præfertur ſibi deliberat, braſium corrupt. ill. in. cerviſiam lupulat. poſtea, ſcilicet, (tali die & anno) apud. *F.* præd. pandoxat. fuiſſet, & convertebat cervicq; lupulat, de eodem malo & corrupto braſio ſic pandoxat. & converſ. in ſalubre & corrupt. devenit, cujus prætextu, idem *A.* invendondo & utterando prædict. inſalubrem cerviſiam lupulat de malo braſio præd. ſic ut præfertur pandoxat & confect. diverſis ſubditis dicti Domini Regis nunc inhabitantibus in & prope *F.* præd. quibus idem *A* præantea vendere & utterare bonam & ſablubrem cervic. lupulat. conſuevit, & ſolebat, non ſolum in magnam infamiam incidit, verum etiam idem *A.* ea de cauſa prædict. cerviſ. lupulat. de præd. malo & corrupto braſio, ſic ut præfertur, per ipſum pandoxat. ad valenciam 120 *l.* totaliter perdidit & amiſit, ad dampnum ipſius *A.* 200 *l.* & inde producit ſectam, &c.

Thus, *ex pede Herculem*, by this you may gueſs at the whole body: only this obſerve by the way, at the bottom

bottom of all their Declarations in the *Kings Bench* they write thus;

Pleg. de profequend. { *Johannes Doo,* / *Richardus Roe.*

And then the *Attorneys* names for the Plaintiff and Defendant thus;

{ *T. R. cum quer.* / *S. D. cum defend.*

In this Court the Declaration being drawn by the Plaintiffs Clerk, the Defendants Clerk calleth for it, or elſe it is delivered unto him by the Plaintiffs Clerk, and he maketh a Copy of it, and hath the benefit of it; and then the next Term after, or ſo ſoon as the Plaintiffs Clerk calleth for anſwer, the Defendants Clerk giveth him his Declaration again, and pleadeth to it, or elſe confeſſeth the action, or lets it go by default, as he finds beſt for his Clients advantage.

Alſo in this Court they ingroſs their Declarations in Parchment, in little pieces ſeverally, and upon the back of them they enter their Continuances, from the Term within written, unto the Term that they confeſs the action, or go to Iſſue, and that the iſſue be entred upon Record: yet after iſſue is joyned, many times they defer the entring thereof till the Cauſe be tried (which is otherwiſe in the Common Pleas) which is beneficial both to the Plaintiff and the Defendant, being they may in the mean time agree the buſineſs, and ſave that charge.

In their Declarations they ſeldom name of what place the Defendant is, unleſs it be upon a Bond

or

or Indenture, where they obſerve the *Alias dictus, &c.*

And when they come to mention the Bond, Bill, or Indenture, in an action brought upon a Specialty, they have their *Profert hic in Curia* in the middle of their Declaration, (ſaying, after the recital of the date of the Specialty, *Curieque nunc hic oſtenſ. &c.*) Whereas in the Common Pleas they conclude their Declarations with a *Profert hic in Curia ſcriptum prad. per quod debitum prad. in forma prad. teſtatur, cujus dat. eſt die & anno ſupradictis, &c.* in all Declarations upon Bill or Bond, *&c.*

SECT. V.

How to draw up an Iſſue in the Kings Bench.

HAving ſhewn our Sollicitor how to proceed ſo far as Declaration in the Kings Bench, we will now ſhew him how to draw up his Iſſue after pleading, and ſo go to Tryal.

An Iſſue in Ejectione Firme.

Memorand quod alias, ſcilicet, Termino Paſchæ ultimo præterito coram Domino Rege apud *Weſtm.* ven. *N. F.* per *T. S.* Attorn. ſuum, & protulit hic in Cur. dicti Domini Regis tunc ibidem quandam billam ſuam verſus *N. S.* & *T. E.* in Cuſtod. Marr. Marreſc. Domini Regis coram ipſo Rege apud *Weſt.* exiſtente, de

ac placito transgressionis & Ejectionis Firmæ, & sunt plegii de prosequend. scilicet, *Johannes Doo*, & *Richardus Doo*. Quæ quidem billa sequitur in hæc verba *S. ff. N. F.* queritur de *N. S.* & *T. E.* in Custode Marr. Marresc. Domini Regis coram ipso Rege existen. pro eo, videlicet, quod cum *H. F.* gen. octavo die *Maii*, anno Regni Domini *Caroli* secundi nunc Regis *Angliæ*, &c. duodecimo, apud *L.* in Comitatu prædicto, dimisit, concessit & ad firmam tradidit præfato *N. F.* quatuor messuagia, ducentas acras terræ, triginta acras prati, centum acras pasture, viginti acras bosci, & sexaginta acra jampnorum & bruere, cum pertin. scituat, jacen. & existen. in *L. M. D.* & *T.* Com. prædict. Habend. & tenend. tenementa præd. cum pertin. præd. *N. E.* à festo *Annunciationis* beate *Mariæ* Virginis tunc ult. præterito, pro & durante pleno fine & Termino septem annorum extunc proxime sequentium & plenarie complendorum & finiendorum: virtute cujus quidem dimissionis, idem *N. E.* in tenementa prædicta cum pertin. intravit, & fuit inde possessionat. quousque prædicti *N. S.* & *T. E.* postea, scilicet, duodecimo die *Maii* anno supradicto, vi & armis, &c. in tenementa præd. cum pertin. intraverunt. & ipsum *N. E.* à firma sua præd. inde (Termino suo prædicto nondum finito) ejecerunt, expulerunt & amoverunt, ipsumque *N. E.* à possessione sua inde extratenuerunt, & adhuc extratenent, & alia enormia ei intulerunt, ad grave dampnum ipsius *N. E* & contra pacem Domini Regis nunc, &c. Et inde producit sectam, &c. Et modo ad hunc diem, scilicet, die *Veneris* prox. post Crast Sancte *Trinitatis*, isto eodem Termino, usque quem diem prædicti *N. S.* & *T. E.* habuerunt licentiam ad billam præd. interloquend. & tunc ad respondend. &c. coram Domino Rege apud *Westm.* venit tam prædictus

dictus *N.E.* per attorn. ſuum prædictum, quam prædicti *N. S.* & *T. E.* per *R. T.* Attorn. ſuum, & iidem *N. S.* & *T. E.* defend. vim & injuriam, quando, *&c.* Et dicunt quod ipſi non ſunt inde culpabiles, & de hoc ponum ſe ſuper patriam; & præd. *N. E.* ſimiliter, *&c.* Ideo ven. inde Jur. coram Domino Rege apud *Weſtm.* die *Martis* prox. poſt octabis ſancte *Trinitatis*, per quos, *&c.* Et qui nec, *&c.* Ad Recogn. *&c.* Quia tam, *&c.* Idem dies dat. eſt partibus prædictis ibidem, *&c.*

When you have iſſue joyned, and intend to proceed to tryal, whether it be in the City, or a tryal at *Weſtminſter*, upon an Iſſue laid in the County of *Middleſex*, or for the Country-aſſizes, you muſt make out your *Venire Facias* to the Sheriff of the City or County where your action is laid, to return you a Jury. The form of a *Venire facias* is thus:

A Venire facias *to ſummon a Jury in the Kings Bench.*

Carolus ſecundus, *&c.* Vic. S. ſalutem. Præcipimus tibi quod Venire facias coram nobis apud *Weſtm.* die, *&c.* Duodecim liberos & legales homines de viſn. de *J.* in Com. tuo, quorum quilibet habeat viginti libras terræ, tenementor. vel reddit. per annum ad minus, per quos rei veritas melius ſcire poterit, & qui nec *H. S* quer. nec *J. S.* aliqua affinitate attingunt, ad faciend. quandam Jur. inter partes præd. de placito tranſgr. ſuper caſum, quia tam idem *J.* quam prædict. *H.* inter quos inde contentio eſt, poſuerunt ſe inde in Jur. ill. Et habeas ibi nomina Jur. & hoc breve. Teſte, *&c.*

If the defendant be an *Alien*, then you must have a Jury *de medietate linguæ*, one half Englisſh, the other half *Aliens*; then you muſt have this clauſe in the writ.

A *Venire* for a party-Jury.

Quorum una medietas ſit de indigenis, altera vero medietas ae Aliegenis.

If you are for the Defendant, and will bring a cauſe to tryal by Proviſo, when the plaintiff will not proceed, your writ runs thus:

Ven. Fa. cum Proviſo.

After you come to *in Jur. ill.* ſay, *proviſo ſemper quod ſi duo brevia inde tibi venerint, unum tantum illorum exequaris & retorn.*

If your cauſe be in *London*, then make your writ *de viſn. Parochie beate de Marie arcubus in Warda de Cheape*, &c.

Upon this writ of *Venire* the Sheriff will return you a Jury in a pannel annexed to the writ: then you are to make a writ of *Diſtringas Jur.* wherein you are to inſert the names and additions of all the *Jurors* returned upon your *Venire facias.* The form of the *Diſtringas* is thus:

Diſtringas Jur. in London.

Carolus ſecundus, *&c.* Vic. L. ſalutem. Precipimus vobis quod Diſtringat *H. D. C. E F.* (*here reciting the Jurors names*) Jur. ſumm. in cur. noſtra coram nobis, inter *I. H.* quer & *F. G.* per omnes terras & catalla ſua in balliva veſtra, ita quod nec ipſi nec aliquis per ipſos ea man. appon. donec aliud à nobis inde habueritis pre-

cept.

& quod de Exit. eorund. nobis reſpond. Ita quod habeatis corpora eorum coram nobis apud Weſtm. die, &c. vel coram dilect. & fideli noſtro, R. H. Mil. Capital. Iuſtic. noſtro ad placita in curia noſtra coram nobis tenend. aſſign. ſi prius die, &c. apud *Guild hall*, *London*, per formam Statuti in hujuſmodi caſu nuper edit. & proviſ. venerit. ad faciend. quandam Iur. inter partes præd. de placita, &c. & ad audiend. Iudic. ſuum de plur. defalt. Et habeatis ibi tunc hoc breve. Teſte, &c.

If the Diſtringas *be in* Middleſex, *then your Writ muſt be* ſi prius, &c. apud Weſtm. præd. in magna Aula placitorum ibidem.

If your Diſtringas *be in any other County for a Trial at the Aſſizes, it muſt have this alteration*, vel coram Iuſticiariis noſtris ad Aſſizas in Com. tuo tenend. aſſign. ſi prius die *Jovis*, &c. apud Caſtrum W. in Com. tuo, per formam Statuti in hujuſmodi caſu nuper edit. & proviſ. venerint, ad faciend. &c. *as in the former.*

A Diſtringas Jur. cum decem tales.

Carolus ſecundus, &c. *as in the former Writ, till you come to* ad audiend. Iudic. ſuum de plur. defalt. *then adde*, Precipimus etiam tibi quod decem tam probos quam alios liberos homines de viſn. de F. in Com. tuo, quorum quilibet habeat viginti librar. terr. tenement. vel reddit. per annum ad minus, neutri parti ſuſpect. in Iur. ill. pon. Et eos habeas coram nobis ad præfat. diem, ad faciend. Iur. præd. ſimul cum aliis Iur. præd. in forma præd. Ita quod Iurat. ill. ad diem illam pro defectu Iur. non remanen. inde capiend. Et habeas ibi nomina eorum quos de novo appoſueris, & hoc breve. Teſte, &c.

A Distringas *where some of the Jurors are withdrawn out of the Pannel.*

Carolus, &c. (ut supra) Precipimus etiam tibi quod amotis *A. B.* & *C. D.* & loco eorum appon. decem tam mil. quam al. liberos & legales homines de vis. de *F.* in com. tuo neutri parti suspect. in Jur. illam pon. Et eos habeas coram nobis ad præfat. diem, ad faciend. Jur. præd. simul cum aliis Jur. in forma prædicta. Ita quod, &c. ut supra.

The *Distringas Jur.* being made and sealed, you must likewise get the Sheriff to return; and then having your Record also ingrossed and sealed, you are ready for Trial; only preparing breviats to instruct your Counsel well; and provide your Witnesses ready, for whom you ought to have a *Subpœna*; the form whereof follows.

Carolus, &c. *A. B C. D.* salutem. Precipimus vobis quod omnibus & singulis negotiis & excusationibus quibuscunque cessan. in propriis personis vestris citis coram Justic. nostris ad Assizas in Com. S. capiend. assign. die Jovis, &c. apud, &c. ad testificand. ea omnia & singula quæ sciveritis in quadam actione in curia nostra, coram nobis jam penden. indeterminat. inter *I. S.* Gen. quer. & *L. M.* Defend. de placito transgr. & ad diem illum per Jur. Patriæ triand. Et hoc nullatenus omittas, sub pœna centum librarum. Teste, &c.

If the Trial be at Westminster, then the Writ runs Apud Westm. in Magna Aula placitorum ibidem: *if in London, then* coram dilect. & fideli nostro R. H. Mil. Capital. Justic. nostro, ad placita in curia nostra coram nobis tenend. assign. apud *Guild-hall, London*, die, &c. ad testificand. &c. ut supra.

In the proceedings in the Kings Bench by Bill, when the Plaintiff and Defendant are at issue, the De-

Defendants Clerk hath the benefit, as he had before, of copying the Declaration; so he hath of making the copy of the issue for the defendant: but in the common Pleas the Plaintiffs attorney hath all the benefit of the defendants copies.

If there be special pleading, in any action by the Plaintiff or the Defendant, which either comes to issue, or that there be a Demurrer, then they carry the whole Book to the Clerk of the Papers, who giveth a Rule to the Defendant, in the Margent of the Book, to joyn in issue, or in demurrer; and he maketh up the books, and is paid eight pence a sheet for them: otherwise it is in the common Pleas, for there the Plaintiffs attorney gets that profit.

The Clerks of the office are to account with the Master of the office, (who is the Secondary) for all writs or entries, &c. of the Term preceding.

SECT. VI.

Of proceeding after Verdict, to Judgement and Execution.

AFter Verdict obtained at a tryal, you are to call for a return of the *Postea*, from the Clerk of the assize, the Term following; or in *London* or *Middlesex* the same Term: only four days are allowed for the Defendant to move in arrest of judgement; after which you must get the Secondary to sign costs, and then every Clerk enters up his own judgements himself, and maketh out his Execution, either a *Capias ad satisfaciend.* against the body, a *Fieri facias* against the goods, or an *Elegit* against the Lands. But if you

once charge the body in execution, you can have no remedy againſt the goods or lands.

A Capias ad ſatisfaciend. *againſt the body in Debt.*

Carolus ſecundus, *&c.* Vic. *S.* ſalutem. Precipimus tibi quod capias *A.B.* ſi invent. fuerit in balliva tua, & eum ſalvo cuſtod. ita quod habeas corpus ejus coram nobis apud *Weſtm.* die, *&c.* ad ſatisfaciend. de 20 libris de debito, necnon 2 *s.* 8 *d.* pro dampnis ſuis que ſuſtinuit, tam occaſione detent. debiti illius, quam pro miſ. & cuſtag. ſuis per ipſum circa ſectam ſuam in hac parte appoſit. unde convict. eſt, ſicut nobis conſtat de Record. Et habeas ibi tunc hoc breve. Teſte, *&c.*

If a *Superſedeas* hath been allowed upon a writ of Error, and *non proſ.* be thereupon, then ſay (after *de Record.*) *brevi noſtro de Superſed. brevi de Errore* vobis *vel* tibi *inde in contrarium direct. in aliquo non obſtan. Et habeas,* &c.

An Execution againſt the body in Treſpaſs.

Carolus, &c. ad ſatisfaciend. *A. B.* de 50 libris pro dampnis ſuis que ſuſtin. tam occaſione cujuſdam trangſr. eidem *A.* per præfat. *C.* nuper illat. quam pro miſ. & cuſtag. ſuis per ipſum circa ſectam ſuam, in hac parte appoſit. unde convict. eſt, ſicut nobis conſtat de Record. Et habeas, *&c.*

A Ca. ſa *in Treſpaſs on the Caſe upon an Aſſumpſit.*

Carolus, &c. ad ſatisfaciend. *A.B.* de 8 *l.* pro dampnis ſuis que ſuſtinuit tam occaſione non performationis cujuſdam promiſſionis & Aſſumptionis eidem *A.* per predict. *D.* nuper, fact. quam pro miſ. & cuſtag. ſuis, *&c.*

An

An Execution for Costs against the Plaintiff, upon a Non-suit.

Carolus secundus, *&c.* Vic. *B.* salutem, *&c.* Ad satisfaciend. *F. W.* juxta formam statuti in hujusmodi casu inde nuper edit. & provis. de 4 *l.* pro mis. & custag. suis in actione quadam in Curia nostra coram nobis versus ipsum *F.* ad sect. præd *R.* de placito transs. super casum, adjudicat. unde idem *R.* postmodum actionem ill. non est prosecut. & unde idem *R.* convict. est, sicut nobis constat de Record. Et habeas, *&c.*

The same after a Verdict.

Ad satisfaciend. *A.B.* juxta formam Statuti inde nuper edit. & provis. de 4 libris eidem *A.* pro mis. & custag. suis, per ipsum circa defensionem suam, in quadam actione debiti, ad sect. præd. *F.* in Curia præd. adjudicat. Et habeas, *&c.*

An Execution against the Bail in Debt.

Carolus, &c. Præcipimus tibi quod capias *T.D.* de, *&c.* & *L W.* de, *&c.* Manucap. *R. S.* si, *&c.* Ad satisfaciend. *N. T.* de quinquaginta libris de debito, necnon de 20 *s.* pro dampnis, *&c.* Unde idem *R.* convict. est, sicut nobis constat de Recordo: Et unde in Cur. nostra coram nobis apud *W.* considerat. est, quod præd. *N.* habeat executionem versus prelat. *T.* & *C.* pro debit. & dampnis præd juxta vim formam & effectum cujusdam Recog. per ipsos *T.* & *C.* in Curia nostra coram nobis, pro præfat. *R.* cognit. Et habeas, *&c.*

A Cap. ad ſatisfaciend. *for ſeveral damages in Treſpaſs.*

Carol.s ſecundus, *&c.* Vic. S. *&c.* Capias *W S.* nuper de, *&c.* & *I. S.* nuper de, *&c.* ad ſatisfaciend. *R. D.* duodecim denar. pro dampnis ſuis, que habuit occaſione captionis & abductionis cujuſdam equi ejuſdem *R.* Necnon præd. *I. S.* ad ſatisfaciend. præfat. *R.* de ſeptem ſolidis pro dampnis ſuis, quæ habuit occaſione captionis & abductionis quatuor ovium ejuſdem *R.* Et etiam eoſdem *W.* & *I.* ad ſatisfaciend. idem *R.* de quatuor libris, quæ eidem *R.* in Curia noſtra coram nobis apud *Weſtm.* adjudicat. fuer. pro miſ. & cuſtag. ſuis occaſione tranſgr. præd. eidem *R.* per præfat. *W.* & *I.* vi & armis, & contra pacem noſtram, apud *H.* in com. tuo illat. unde convict. ſunt, ſicut nobis conſtat de Record. Et habeas, *&c.*

Thus have I given you ſeveral examples of Executions againſt the body: In the next place take alſo ſome patterns of writs againſt the goods.

A Fieri facias *in Debt.*

Carolus ſecundus, *&c.* Vic. S. ſalutem. Præcipimus tibi quod de bonis & catall. *R. S.* (alias dictus, *&c. if it be upon bond*) in balliva tua, Fieri facias centum libras de debito, necnon 20 *s.* pro dampnis quæ *C. D.* nuper in Curia noſtra, coram nobis, verſus præfat. *R. S.* recuperavit, tam occaſione detentionis debiti illius, quam pro miſ. & cuſtag. ſuis per ipſum circa ſectam ſuam in hac parte appoſit. unde convict. eſt, ſicut nobis conſtat de Record. & denar. ill. habeas coram nobis apud *Weſtm.* die, *&c.* ad reddend. præfat *C. D* de debito & dampnis prædictis. Et habeas ibi tunc hoc breve Teſte, *&c.*

A.

A Fieri facias *againſt an Adminiſtrator.*

Carolus, &c. Præcipimus tibi quod de bonis & catallis quæ fuer. *A. B.* defunct. tempore mortis ſuæ in manibus &c. quod *C. D.* vid. *Adminiſtrator.* &c. quæ fuerunt ejuſdem *A B.* tempore mortis ſuæ *Adminiſt.* in balliva tua, fieri facias octoginta libras de dampnis *R. T.* nuper in curia noſtra, coram nobis, verſus eum recuperavit, tam occaſione non performationis ejuſdam promiſſionis & aſſumptionis eidem R. per præfat. *A.B.* in vita ſua nuper fact. quam promiſ. & cuſtag. ſuis, & ſicut nobis conſtat de Record. ſi tant. in manibus ſuis habeat; & ſi tant. in manibus ſuis non habeat. tunc 6 *l.* de bonis & catalli dicti *C.D.* vid propriis. Et denar. illos habeas coram nobis apud Weſtm. die, &c. *Ad* reddend. præfat. R. pro dampnis præd. Et habeas, &c.

A Fieri facias *upon Judgement, affirmed upon a Writ of Error out of the Common Pleas.*

Carolus ſecundus, &c. Vic. S. ſalutem. Præcipimus tibi quod de bonis S B in balliva tua Fieri facias centum libras de debito, necnon ſex libras pro dampnis, quæ N O. nuper in Cur. noſtra coram O. B. Mil. & aliis ſociis ſuis Juſtic. noſtris de Banco, verſus eum recuperavit, tam occaſionis detent. &c. Unde convict. eſt, ſicut per inſpectionem Record & proceſſ. inde quæ coram nobis certis de cauſis venir. fecimus, nobis conſtar. de Record. quam etiam de quinque libris, juxta formam Statuti inde nuper edit. & proviſ. pro dampnis miſ. & cuſtagiis ſuis, quæ habuit occaſione dilationis Executionis Judicii præd. prætextu proſecutionis ejuſdem brevis noſtri de Errore, per prædict. S. verſus præfat. N. in Cur. noſtra coram nobis proſecut. unde idem Judic. in Cur. noſtra, coram nobis, poſtmodum affirmat. fuit,

ſicut nobis conſtat de Record. Et denar. illi habeas coram, &c. in Octab. &c. Teſte, &c.

A Fieri facias *againſt a Plaintiff for Coſts to the Defendant.*

Carolus Secundus, *&c.* Vic. *&c.* Præcipimus tibi quod de bonis & catal. *A. B.* in balliva tua, Fieri facias quatuor libras, quæ *R. T.* in Curia noſtra, coram nobis adjudicat. fuer. promiſ. & cuſtag. ſuis circa defenſionem ſuam, in quadam actione tranſgreſ. ſuper caſum, ad ſect. prædict. A. juxta formam Statuti inde nuper edit. & proviſ. Et denar. illos habeas coram nobis apud. Weſtm. die, &c. ad reddend. præfat. *R.* promiſ. & cuſtag. ſuis prælictis. Et habeas, &c. Teſte, &c.

A Teſtatum Fieri facias *againſt an Adminiſtrator upon a promiſe.*

Carolus Secundus, &c. Vic. S. ſalutem. Cum Vic. noſtris *L.* nuper præceperimus, quod de bonis & catal. quæ fuer. *A. B.* defunct. tempore mortis ſuæ in manibus *A.* vid. *A*dminiſtrat. &c. quæ fuer. ejuſdem *B.* tempore mortis ſuæ in balliva ſua fieri facerent, octoginta & ſex libras de dampno, quæ *R. T.* in Cur. noſtra, coram nobis, verſus eum recuper. tam occaſione non performat. ejuſdem promiſſ. eidem *R.* per præfat *B.* in vita ſua fact. quam promiſ. & cuſtagiis ſuis, per ipſum circa ſectam ſuam in hoc parte oppoſit. unde convict eſt, ſicut nobis conſtat de Record. ſi tant. in manibus ſuis habeat; & ſi tant. in manibus ſuis non habeat, tunc præd. ſex libras de bonis & catall. dict. *A.* propriis. Et denar. ill. habeant, &c. Dictique Vic. noſtri *L.* ad diem ill. nobis retorn. quod præd. *A.* null. habet

bona

bona ſeu catal. in balliva ſua unde dampna præd. aut aliquem inde parcel. fieri fac. poſſunt, ſuper quo ex parte præd. *R.* in curia noſtra coram nobis ſufficienter teſtatum eſt quod præd. *A* ſufficien. habet bon & catal. in balliva tua, dampna præd fieri fac. poſſis: Ideo tibi præcipimus quod de bonis & catal. præd. *A.* in balliva tua in manibus præd. *Anne* Adminiſtrand. fieri facias præd. Octoginta & Sex libras de dampni præd. ſi tant. *&c.* & ſi non, *&c.* tunc præd. ſex libras de bonis & catal. præd. *A.* prop. Et denar. illos habeas, *&c.* die, *&c.* ad redden. præfat. *R.* pro dampni præd. in forma præd. Et habeas, *&c.*

A Fieri facias *againſt two Executors, where one died before ſatisfaction.*

Carolus Secundus, *&c.* Vic. Buck. ſalutem. Precipimus tibi quod de bonis et catal. quæ fuer. *I. D.* defunct. nuper dict. &c. tempore mortis ſue in manibus et cuſtod. *I. L.* executor. teſt. et ultim. voluntat. præd. *I D.* ſimul cum *T. A.* gen. modo etiam defunct. coexecut cum *I. L.* præd. Teſtamenti et ult. voluntat. præd. *I. D. A*dminiſtrand. in balliva veſtra, fieri facias decem libras de debito, et ſexdecim ſolidos pro damnis quæ *F. G* nuper in curia noſtra coram nobis apud Weſt. recuperavit verſus præd. *I. L.* et *T. A.* in vita ipſius *T.* Juſtin. *&c.* (ut in aliis uſq;) unde idem *I. L.* ſimul cum præd *T.* convict. eſt, *&c.*

A Fieri fac. *for reſidue of a debt when part is levied.*

Carolus, *&c.* Vic. S. ſalutem Præcipimus tibi quod de bonis et catallis *I. L.* in balliva tua, fieri facias decem Libras reſid. Viginti librarum de debito, et 40 *s.* pro dampnis quæ *T. R.* nuper in Cur. noſtra coram nobis verſus eum recuperavit, tam occaſione detentionis debiti illius, quam promiſ. et cuſtag. ſuis (ut in aliis, *as in others, &c.*)

Having

Having thus shown you some patterns of Execution against the body and goods, I shall give you some also against the Lands; where note, that if once you take Execution against the Lands, and it be executed, returned and filed, you can never afterwards meddle witht he body or goods for that debt.

An Elegit *in Debt.*

Carolus Secundus,&c. Vic. Sussex,salutem. Cum *A.B.* nuper in curia nostra coram nobis apud West. per bill. sive brevi nostro, ac per Judic. ejusdem cur. recuperavit versus *T.R.* viginti libras de debito, necnon quadraginta solidos pro dampnis suis quæ sustinuit, tam occasione detentionis debiti illius, quam promiss & custag. suis per ipsum, circa sectam suam in hac parte appositi. unde convict. est, sicut nobis constat de Record. postea; præd. *A.* venit in curia nostra coram nobis, & Elegit sibi liberari omnia bona & catalla præd. *T.* præter boves & Aff. os de caruca sua, & similiter medietat. omnium & singulor. terr. & tenemen. præd. *T.* in ballivo tua, juxta formam Statuti inde nuper edit. & provis. quousque debit. & dampna præd. inde plenar. levaverit. Ideo tibi præcipimus, quod omnia bona & catalla præd. *T.* in balliva tua, præter boves & aff. os de caruca tua, & similiter medietat. omnium terr. & tenement. præd. *T.* in balliva tua, de quibus præd. *T.* primo die Jan. anno Reg. nostri sexto decimo, vel unquam postea fuit seisit. sine dilatione liberari facias per rationabil. præcium & extent. tenend. sibi bon. & catall. præd. ut bon. & catall. sua propria, ac etiam tenend. medietat. ter. & tenemen. præd. ut liberam tenementum suum sibi & assign. suis, juxta formam Stat. præd. quousq; debit. & dampna præd. inde levaverit, & qualiter hoc breve nostrum fuer. execut. nobis apud West. die, &c. constare facias sub sigillo tuo, & sigillis eorum per quorum sacr. extent. & appreciation. ill. feceris, Et habeas, &c.

An

An Elegit *in debt for a Reſidue.*

Carolus, &c. Vic. *&c.* Cum *B. &c.* poſteaque præd. *B.* ven. in Cur. noſtra coram nobis,& Elegit ſibi liberari omnia bona & Catalla præd. *C.* in balliva tua, præter boves & Affros de Caruca ſua, & ſimiliter medietat. omnium ter. & tenementorum ſuorum in balliva tua, juxta formam Statuti in hujuſmodi caſu nuper edit. & proviſ. quouſque viginti libras reſid. debiti & dampn. præd. inde plenar. levaverit: Ideo tibi præcipimus, *&c.* vel unquam poſtea fuit ſeiſit,per rationabil. precium & extent. præfat. *B.* liberari facias tenend. *&c.* juxta formam Statuti inde nuper edit. & proviſ. quouſque 20 libras præd reſid. debiti & dampn. præd: *&c.* Et qualiter, *&c.* nobis, *&c.* (ut ſupra, *&c.*) Et habeas, *&c.*

An Elegit *againſt the Bail in debt.*

Carolus, &c. Vic. *S.* ſalutem. Cum *J. K.* nuper in Cur. noſtra coram nobis apud *Weſtm.* per billam ſive brevi noſtro, ac per Judic. ejuſdem Curiæ recuperavit verſus *J. S.* alias dictus, *&c.* quadraginta libras de debito,necnon, *&c.* pro dampn. ſuis quæ ſuſtinuit tam occaſione, *&c.* Unde convict. eſt, ſicut nobis conſtat de Recordo; & unde in eadem Curia noſtra,coram nobis apud *Weſtm.* conſiderat. eſt, quod præd. *J. K.* haberet executionem verſus *F. J.* de, *&c.* & *R. L.* de, *&c.* manucap. præd. *J. S.* de debit.& dampnis præd. juxta vim, formam, & effectum cujuſdam Recogn. per ipſos in Curia noſtra, coram nobis, pro præfat. *J. K.* cognit. Poſteaque præd. *J. K.* venit in eadem Curia noſtra, coram nobis, & Elegit ſibi liberari omnia bona & Catall. præd. *F.* & *R* in balliva tua, præter Boves & Affros de Carucis ſuis, ac ſimiliter medietat.

dictat. omnium terr. & Tenement. cotund. F. & R. in ballivatua, per rationabil. precium & extent. tenend. sibi & assign. suis, juxta formam statuti in hujusmodi casu inde nuper edit. & provis. quousque, &c. (ut in aliis, &c.)

In an action of Ejectment where the plaintiff recovers, there he recovers the possession of the thing sued for: and therefore having before shewed you how to declare and make up an Issue in that Case, I shall likewise shew you how to make out Execution for the possession.

A Writ of Habeas facias possessionem.

Carolus, &c. salutem. Cum *C. G.* nuper in Curia nostra, coram nobis apud *Westm.* per billam sive breve nostro, ac per Judic. ejusdem Cur. recuperavit versus *H. J.* Terminum suum adhuc ventur. de et in duobus Mess. viginti acris terræ, &c. cum pertin. scituat. &c. quæ quidam *T. R.* primo die, &c. anno, &c. (*as in the Declaration*) eidem *C.* demisit ad terminum annorum qui nondum præteriit, videl. à vicesimo die, &c. usque finem et terminum septem annorum extunc prox. sequen. et plenar. complend. et finiend; Virtute cujus quidem dimissionis idem *C.* in præd. duo Mess. &c. cum pertin. intravit, et fuit inde possessionat. quousque præd. *H.* postea, scilicet, eodem primo die, &c. anno, &c. præd. vi et armis, in predictis duo Messuag. &c. cum pertin. in et super possessionem predict. *C.* inde intravit, et ipsum *C.* à firma sua prædicta Termino suo prædict. nondum finit, ejecit, expulit, et amovit: Ideo tibi præcipimus quod prefat. *C.* possessionem suam termini sui prædicti adhuc ventur. de et in præd. duobus Mess. et viginti acris terræ cum pertin. habere facias. Et qualiter breve nostrum fueris execut. nobis apud *Westm.* die, &c. constare facias,

cias. Et habeas ibi tunc hoc breve. Teste, &c.

Thus have we guided our Sollicitor through the usual practice of the Kings Bench, from the leading process to execution.

There is also a proceeding in the Kings Bench by Original Writ, and so to the Outlawry, in all Cases, except these four, *viz.* Debt. Detinue, Covenant, and Account: In all actions of Trespass, Case, assault, *&c.* you may outlaw in the Kings Bench, as well as in the common Pleas; and they have their Philizers Office for every County; and then if the Defendant appears upon the Exigent, they deliver their declarations in the same form as the common Pleas, and the Plaintiffs attorney hath the benefit of them, and so consequently of the copies of the Issues.

But if a poor man be Outlawed here, he is undone: for besides the excessive charge of reversing it, he must be brought into the Court in person to reverse it, though he be never so far from *London*; and must procure good Bail.

There is likewise the Crown-side belonging to this Court, for which there is the Crown-office; the Master of it is called the Clerk of the Crown: here may be brought all manner of Indictments for Treason, Murder, Felony, *&c.* and Informations for Riots, and all Offences upon penal Statutes; and from this Office issues out all *Certioraries* to remove Indictments out of all Sessions in City or Country; and all convicts at assizes or Sessions certified. Here are proper Clerks belonging to this Office, who dispatch the business for the several Counties, attending this service only.

We have now led our Solicitor through the practice of the High-court of Chancery, the common Pleas, and Kings Bench; so that now for a time

time we will leave the Hall, and aſcend up Stairs into the Exchequer-chamber: onely by the way caſt your eye on the Table of Fees in the King Bench.

SECT. II.

Fees of the Kings Bench.

A Note of Fees due, and time out of mind uſed to be paid to the Prothonotaries, or chief Clerks of the Kings Bench, and to their Clerks, as the ſame was preſented upon Oath by vertue of Commiſſion in April 1630. *by* 29 *Attornies of the ſame Court, and hitherto taken.*

WRITS.

For a *Latitat.*	5 s. 1 d.
Superſed.	
Exigent in Appeal.	
Diſtring. in Attaint,	
Habeas corpus,	
Certiorari,	
Procedend.	
Elegit,	
Subpœna,	
Retorn. hend.	
Withernam,	
Second deliverance,	
Reſtitucon.	
Scire facias,	
Diminucon.	
Libello hend.	
Prohibition,	
Conſultacon.	
Proprietate probanda.	
Diſtr. in detinue.	
Inquir. de valore.	
Reſum.	
Reattachmt.	
Veſa. defend. in audita querela,	
Here fac. ſeiam. & poſſeſſion.	
Reſponſ. in attaint,	
Vend. expon.	
Bre. Epo.	
Mittimus.	

All

All these are accountable for to the Prothonotaries, *viz.* For every one, two shillings, out of which they allow the Clerks for writing, four pence.

Venire fac.
Distring. Jur.
Als. & plur. cap.
Casa.
Inquir. de Dais.
Habeas Corpus sur cepi Corpus.
Averm. versus vic.
Fieri fac.
Testat. Fieri fac. & casa.
Distr. nuper vic.
Non omittas.

For every of these, besides the Seal, 6 *d.* And for every *Deliberat de record.* 4 *d.* And for the *Jura* of the *Distr.* of *Nisi prius* 4 *d* But all these have been always to the Prothonotaries Clerks, and are not accounted for to the Prothonotaries.

In every action wherein the Plaintiff recovereth damages to the value of 13 *l.* 6 *s.* 8 *d.* he payeth 12 *d.* in the pound for Damage Cleer, when the Judgment is signed.

Kings Bench Fees for Entries.

For every Deed, how short soever,	2 *s.*
For every action of Trespass,	1 *s.*
For every Not guilty,	1 *s.*
For every Justification in Trespass,	2 *s.*
For every Replication,	1 *s.* 8 *d.*
For every action of the Case not above 3 sheets,	2 *s.*
For every general Issue to it,	1 *s.*
For every *Ejectione Firme*,	2 *s.*
For every Declaration in Appeal,	2 *s.*
For every general Issue therein,	2 *s.*
For every *Recogn. sur Recop.* for every Defendant severally,	2 *s.*

For

For every Deposition upon all Prohibitions, 2 *s.*
For every Judgement by Circumstant. 4 *s.*
Out of which the Clerk is allowed 8 *d.*
For every other Judgement, 2 *s.*
Whereof the Clerk is allowed 4 *d.*
For every dismission, 2 *s.*
For every commitment in Execution, 2 *s.*
For every satisfaction, 3 *s.*
For every appearance recorded, 2 *s.*
For every *Non pros.* 2 *s.*
For every action of Debt, Detinue, or Trespass, 1 *s.*
For every general Issue therein, 1 *s.*
For every Condition performed, 2 *s.*
For every Replication to it, 1 *s.*
For a Writing denied, and keeping of the Writing, 2 *s.*
For every justification of Battery, 2 *s.*
For every *Audita Querela*, how short soever, 2 *s.*
For every special Imparlance, 2 *s.*
For every general Imparlance upon the Plea-Roll, 1 *s.*
For every default upon Record, 2 *s.*
For a suggestion upon a Prohibition, how short soever, 2 *s.*
For every Recognizance to it, 2 *s.*
For every Writ of *Error*, how short soever, 3 *s.* 4 *d.*
For entring the *Errors*, 2 *s.*
For entring in *Nullo est errat.* 2 *s.*
For every Diminution, 2 *s.*
For abatement of a Writ of *Error*, and license to sue a new one, 2 *s.*
For entring of the same, 2 *s.*
For every Recognizance single, or with Condition, 2 *s.*
For every Inrolement whatsoever, longer then three sheets, 6 *s.* 8 *d.*

After

After the rate for a Roll on both sides 6 *s.* 8 *d.*
For half a Roll, 3 *s.* 4 *d.*
For every Bail by Recognizance, 2 *s.* 6 *d.*

Kings Bench Fees of Clerks and Attornies:

FOR their fee in every cause for every Term, 3 *s.* 4 *d.*
For their fees at every *Ni. pri.* and Inquiry of damages, 3 *s.* 4 *d.*
For their fee in every Appeal, and Assize every Term, 6 *s.* 8 *d.*
For drawing every Declaration not exceeding a sheet, 1 *s.*
For every sheet above one, 8 *d.*
For drawing every Action on the case and covenant, how short soever, 3 *s.* 4 *d.*
For drawing every ejectment, 2 *s.*
For every sheet ingrossed in Parchment, 4 *s.*
For drawing a Surmise upon a Prohibition, every sheet, 1 *s.*
For drawing special Pleadings, every sheet, 8 *d.*
For copies of Declarations, Pleas, or other things, every sheet, 4 *d.*
For continuing every cause every Term, 4 *d.*
For entring all things above three sheets, every sheet, 8 *d.*
For every judgment by circumstan. 5 *s.*
For making every Bail, 4 *d.*

For making every Bill of Middlesex, *distring. super vic.* and *Hecorp. fur corpus per preceptum* thereupon, 8 *d.*

For making every *Hecorpus ad fac. becorp. cum privileg certiorari, procedend. elegit. & habere fac. possessionem,*

ſionem, before 4 d. allowed by the Prothonotary, 1 *s.* 8 *d.*

For every ſheet in a Writ of Inquiry, Prohibition, Conſultation, &c. 4 *d.*

For entring every *Scire fac.* 1 *s.*

Fees received by the Secondary.

For taking the acknowledgment of a Deed in Court, 1 *s.*

For ſigning every Judgment by confeſſion, *nihil dicit, verdict and demurrer.*

Alſo for acknowledgement of every Deed, for every Judgment Pronounced in open Court, every rule to alter a Viſne, for every Rule for a Prohibition, Conſultation, Attachment, *&c.* He receiveth for the poors Box, } 1 *s.*

For allowance of a writ of *Error, coram nob. reſiden.* 2 *s.*

Whereof to the Box, 1 *s.*

For an allowance of an *Audita querela*, 2 *s.*

Whereof to the Box, 1 *s.*

Kings Bench fees.

For every common Bail, 1 *s.* 2 *d.*

For a ſpecial Bail upon a *Habeas corpus*, *Certiorari*, or attachment, 4 *s.* 1 *d.*

Fees received by the Secondary for the Judges.

For every *Habeas corp. ad fac. & recipiend.* 4 *s.*

For every *Procedendo*, 4 *s.*

For every *Certiorari* to remove a forren attachment, 4 *s.*

For a *Procedendo* thereupon, 4 *s.*

For

For every *Habeas corp. cum privilegio*, 3 *s.*
Out of every *Latitat* they have 8 *d.*

Fees received by the Judges Clerks.

FOr every Warrant for a *Habeas corp.* or any thing to which the Judge putteth his hand in the Term-time, 1 *s.*
And in the Vacation, 2 *s.*
For the acknowledgement of a Deed which he ſaith is for his Maſter, 6 *s.* 8 *d.*
And for his own fee, 2 *s.*
For taking the Depoſition of Witneſſes upon a Suggeſtion for a Prohibition, for every Witneſs, 6 *s.* 8 *d.*
And for his own fee for every witneſs, 2 *s.*

Fees paid the Clerk of the Papers.

FOr copying every ſpecial Plea, every ſheet, 4 *d.*
For making the Paper-book, either Iſſue or Demurrer, every ſheet, 8 *d.*
For entring into his book every Record to be read in court, 1 *s.*
For entring into his book every cauſe, to hear counſel on both ſides, 1 *s.*
For entring every Tryal at Bar, 3 *s.*

The Keeper of the Poſtea's

HAth for the receiving, marking, keeping, and delivery of every *Poſtea*, 4 *d.*

The Keeper of the Files of Declarations

HAth for the filing, paying, and shewing the files of every Clerk, for every Term, 2 *s.*

Fees paid to the Clerk of the Rules.

FOr entring every Rule, except general Rules for answer, 4 *d.*
For a copy of every Rule, 4 *d.*
For every general Rule for answer, being above three, 2 *s.*
For every Rule given in court with a copy for a Prohibition, or consultation, he taketh 12 *d.* and the due is but 8 *d.* which hath been taken not above 25 years. } 8 *d.*

For every Rule with a copy given in court the last day of a Term, he taketh 12 *d.* whereas the due is but 8 *d.* which hath been taken this two or three years. } 8 *d.*

For every copy of a Rule after the continuance day, he taketh 8 *d.* whereas the due is but 4 *d.* which hath been taken 2 or 3 years. } 4 *d.*

All such Affidavits as are read in court he claimeth this two years, or thereabouts, to have the keeping of them, and taketh for copies both of Plaintiff and Defendant at his own discretion, which formerly hath not been.

Dogget-

Dogget-maker.

THe Secondaries Clerk, for making and keeping the Remembrances of Entries, *&c.* hath of every Clerk every Term, 8 *d.*

Keepers of the Bails.

FOr entring the common Bails into Parchment-Rolls every Term, every Clerk of the Office giveth what he pleaſeth.

Keepers of the Rolls of Writs.

FOr carrying the Rolls of the VVrits to the Hall, and the Office, he hath of every Clerk every Term, what he pleaſeth.

Fees paid to the Cuſtos Brevium *and his Clerks.*

FOr every Record of *Niſi prius* in a ſhort action of Treſpaſs, 4 *s.* 6 *d.*
For every other Record, how ſhort ſoever, 5 *s.*
For every full preſs of *Niſi pri.* or *Mittimus*, 0 *s.*
For every *Niſi prius* out of the Crown-ſide, 6 *s.* 8 *d.*
For every full preſs there, 6 *s.* 8 *d.*
For every *Niſi prius* upon an Indictment of Murder, for every Name that pleadeth to Iſſue, 6 *s.* 8 *d.*
For every ſhort Exemplification in Treſpaſs, 10 *s.*
For every ſhort exemplification containing a large skin, 1 *l.*
For the like in the Crown-ſide, 2 *l.*
For every Exemplification in *Ejectione firmæ*, 13 *s.* 4 *d.*
For filing a Writ being a *Poſt diem* upon the *Angl.* 4 *d.*
For all pt. *Terminums* at any time after the firſt week ended in the ſecond Term, 1 *s.* 8 *d.*
For every VVarrant of attorney in Murder, 1 *s*

For every Sheriffs Warrant, 8 *d.*
For every other Warrant of Attorney, 4 *d.*
For every ſearch for a Roll for 10 years laſt paſt, 6 *d.*
For every ſearch above ten years laſt paſt, 3 *s.* 4 *d.*
For ſearch for Rolls for the ſix laſt Terms, 00
For ſearch of every file of Declarations, Bails, Judicial and other Writs after ten years, 1 *s.* 4 *d.*
For the copy of every ſheet between party and party, 4 *d.*
For a copy of a Deed inrolled, for every ſheet, 8 *d.*
For a file of the *Angl.* for every Term after one, 4 *d.*
For the copies of every VVrit or Appeal, every ſheet, 8 *d.*

Fees now paid to the Cuſtos Brevium *his Clerks.*

FOr writing every *Niſi prius* or *Mittimus*, being but one preſs, 1 *s.* 6 *d.*
For every preſs more then one, 1 *s.*
For writing every Exemplification in Treſpaſs or Ejectment, 3 *s.* 4 *d.*
For writing every large skin of Parchment Exemplified, 6 *s.* 8 *d.*

The Fees for writing every *Niſi prius* or *Mittimus* were uncertain until about *Anno* 2 *Jacobi*, and then it was ordered by the Judges, that the Clerks ſhould have for writing of the firſt preſs, 1 *s.* 6 *d.* and if more, then every other preſs, 12. and every full preſs to contain ſixty lines.

Fees

Fees claimed by the Cryer and Porter.

As Cryer.

FOr calling a Jury,	2 *s.*
For every Oath given in Court,	4 *d.*
For taking a privy Verdict,	4 *s.*
For every argument in Law,	2 *s.*
For every Wager of Law,	2 *s.*
For every admission to a Guardian,	6 *d.*
For a Bail taken at the Bar,	2 *s.*
For calling a Non-suit,	4. *s*
For calling the Record,	1 *s.*
For calling a Default,	1 *s.*
When a Pardon is pleaded,	2 *s.*

As Porter.

FOr every Tryal at Bar,	5 *s.*
For every privy Verdict,	2 *s.*
For summoning the Wager-men,	3 *s.*
For a Bail taken at Bar,	2 *s.*
For a Record called,	6 *d.*
For a default called,	6 *d.*
For a Pardon pleaded,	2 *s.*
For a discharge of a Rescous,	4 *d.*
For a Bail taken in Court,	6 *d.*

Of all these Fees mentioned and claimed by the Cryer and Porter, these following have been paid as due, during the time of our knowledge.

As Cryer.

For calling a Jury,	1 s.
For swearing every Witness,	4 d.
For a Wager of Law,	1 s.
For a Non-suit,	1 s.
For a default of a Record,	1 s.
For a *Defecit de lege.*	1 s.

As Porter.

For summoning the Wager-men,	3 s.
Also the Porter receiveth more for the Wager-men, where the Defendant wageth his Law, or is ready to wage it,	1 s.

Fees received by the Clerk of the Errors immediately after the Statute of 27 Eliz.

For the Lord chief Justices Fee for the allowance,	17 s. 4.
For the Receit,	5 s.
For the Return,	2 s.
For the certificate of the first press,	6 s.
For writing the first press,	2 s.
For a *Superfedeas*,	2 s. 7 d.

These

These Fees amounting to 35 *s.* 3 *d. were paid upon the allowance of the Writ, and for the* Supersedeas.

FOr the certifying of the Record, for every press besides the first, 6 *s.*
For writing every press after the first, 1 *s.*
For the Roll, 1 *s.*
For marking *Non prof.* upon the Roll, 5 *s.*

Also immediately after the making of the Statute of Anno 3 Jac. *the Fees taken for the Bail were as followeth, upon a Writ of Error.*

TO the Prothonotaries for the Recognizance, 2 *s.*
To the Iudges Clerk, 2 *s.*

Fees upon a Writ of Error.

FOr making the Bail, 4 *d.*
For drawing and entring the Recognizance, 4 *s.*
Now, and for the space of thirty years last past, he hath taken upon the Receit of every Writ of Error and *Supersedeas*, in a gross sum, 2 *l.* 6 *s.* 8 *d.*
Also for certifying every press besides the last, 6 *s.* 8 *d.*
For writing every press besides the first, 2 *s.*
For every *Supersedeas* besides the first, with the Seal, 9 *s.* 3 *d.*

These

These Fees last mentioned were set down by Sir John Popham, *late Lord chief Justice*; Ex relatione Edi Page cler. Error. *but we do not certifie it upon our knowledge.*

ALso he taketh for every Bail in a gross summe, 19 *s.* 4 *d.*

For every Writ of Error, *Tam in redditione judicii, quam in adjudicatione executionis*, he taketh double Fees.

The Marshals Fees, as they were certified by Sir William Knowls *Knight, sometimes Marshal of the Kings Bench.*

IMprimis, For enlargement of every Prisoner, which is termed his Admission-fee, 10 *s.*

Also he demandeth of every prisoner upon his enlargement, a fine, for not wearing of Irons,

For Execution in every pound 3 *d.*

For actions, in every pound 1 *d. ob.*

The Marshal taketh for every dismission more then the former fee of ten shillings, 8 *s.* 8 *d.*

The Deputy-Marshal and Marshals-men, take for every prisoner that is committed in court, 5 *s.* 6 *d.*

And for every prisoner committed from the Judges chamber, 2 *s.* 6 *d.*

The Deputy-Marshal taketh for the allowance of every *Habeas corpus*, 2 *s.* 6 *d.*

The

The Clerk of the Fines.

THere was an Office invented and erected about 6 *Jacobi*, whereby is taken upon the filing of every Declaration in debt, where the Debt is above 40 *l.* and not above a hundred Marks, 3 *s.* 4 *d.* and above a hundred Marks, and not above a hundred pounds, 5 *s.* and so after the same rate: and also in every Action on the Case, and Trespass for Goods, where the damages are laid above fourty pounds, the like rates; so that the Plaintiff or Defendant be not a person priviledged, nor the Defendant in *Custodia Marr.* whereas before 6 *Jac.* in all our memories, no such moneys were paid or demanded.

Fees for Tryals at Bar, taken by several Officers.

THe Cryer for calling the Jury, 2 *s.*
For swearing every Witness, 4 *d.*
The Porter for keeping the Doors, 5 *s.*
The Cryer for a Non-suit, 2 *s.*
The Deputy-Marshal, 2 *s.*
The Tipstaves or Marshals-men for a Verdict, *Sedend. curia*, 8 *s.* 6 *d.*
If the Jury lie together all night, 17 *s.* 8 *d.*
The Judges Footcloath-men, 12 *d.* apiece, 4 *s.*
The Secundary receives for a Verdict in Court, 2 *s.* for a privy Verdict, 13 *s.* 4 *d.* which he saith is thus divided; *viz.* The Iudge that taketh the Verdict, 6 *s.* 8 *d.* to the Secondary, 2 *s.* and the rest being 4 *s.* 8. among the Officers that attend.

Of

Of all the Fees mentioned, we preſent theſe following to be due.

TO the Cryer for calling the Jury, 1 *s.*
For ſwearing every Witneſs, 4 *d.*
For calling a Non-ſuit, 1 *s.*
To the Deputy-Marſhal, 2 *s.*
To the Porter for keeping the Doors, 1 *s.*
To the Secondary for taking a Verdict in Court, 2 *s.*
To him for a privy Verdict, 13 *s.* 4 *d.*

And now they take no other Fees then theſe laſt mentioned.

VVe pay into the Crown-office for Eſtrearing every *Amercement*, 1 *s.*

Alſo there is paid to the Secondaries Clerk, by every one of the Prothonotaries Clerks, every Term that he faileth to bring in his Rolls within twenty four days next following after *Trinity*, *Michaelmas*, and *Hillary* Terms reſpectively, and within ten days next after *Eaſter* Term, 12 *d.* whereas formerly they had time until the Eſſoin-day of the next Term, to bring them in without paying any fee.

Alſo there is paid to the Secondaries Clerk for the filing of every common Bail, after ſix days after every Term, over and above the fee, 4 *d.*

The Table of which ſeveral payments laſt mentioned, is remaining in the Kings Bench Office.

Fees due and received by Philizers.

FOr every *Cap. Als. Plur. Exigt. Proclama. & Diſtring.* in Treſpaſs, 6 *d.*
For every Exigent and Proclamation in Replevin, 6 d.

For

For every *Pone*, *Cap. Als. Plur. Teſtat.* in Replevin, 6 *d.*
For every *Superſed.* upon the mean proceſs aforeſaid, 2 *s.*
For every *Cap. Als. Plur. Teſtat.* and *Exigt.* in *Truſ. ſup. caſum.* Action on a Statute, *Rap. cuſtodie Truſ. contra forman ordinationis*, Ejectments, and ſuch ſpecial Writs, 1 *s.*
For the Proclamation thereupon, 1 *s.*
For the *Diſtring.* thereupon, 1 *s.*
For every *Cap. Als. & Plur.* in appeal of *Mayhem*, 1 *s.*
For every *Cap. Als. & Plur.* in an appeal of Robbery, 2 *s.*
For every Name in every *Cap. Als. & Plur.* in appeal of Murder, 2 *s.*
For every Proclamation in every appeal, 2 *s.*
For every general *Cap. ult. & delibatur de recordo*, 10 *d.*
For every ſpecial *Cap. ult. & delibatur de recordo*, 2 *s.* 4 *d.*
For every Writ of *Withernam*, ſecond deliverance, and return *Habend.* before Avowry, 2 *s.*
For every *Venire facias*, 6 *d.*
For every *Diſtring. Jur. delibat. de recordo, & jur. Niſi prius*, 1 *s.* 2 *d.*
For every *Subpœna* upon Iſſues by Original, 2 *s.*
For entry of Declarations in treſpaſs by Original, 1 *s.*
For entring Not-guilty thereunto, 1 *s.*
For entring every ejectment and action upon the Caſe, not above three ſheets, 2 *s.*
If longer, then for every ſheet, 8 *d.*
For every general Imparlance, 4 *d.*
For every ſpecial Imparlance, 2 *s.*
Copies of VVrits of attaint before Judgement, *per* ſheet, 8 *d.*

Fees

Fees due upon Tryals at Guild-hall *to the Officers of the Court.*

TO the Clerk that reads the Record and Evidence,	1 *s.*
To the Associate,	1 *s.*
For every Default,	2 *s.* 4 *d.*
To the Cryer,	1 *s.*
For swearing every Witness,	4 *d.*
The Marshal,	2 *s.*
The Foot-cloath,	1 *s.*
The Green-cloath,	1 *s.* 6 *d.*
The Door-keeper,	1 *s.*
The Hall-keeper,	1 *s.*
The Jury-men,	8 *s.*
Over-men, every one,	4 *d.*
For summoning and keeping the Jury,	4 *s.* 4 *d.*
Lights,	1 *s.*
Bar-keeper,	1 *s.*
Return of the *Postea*,	2 *s.*
Also the Associate taketh in every cause where the Plaintiffs attorney is not present, and of every Defendant which appeareth, and hath not his attorney in Court, for a Warrant of attorney,	4 *s.*

THE

THE SOLLICITOR In the EXCHEQUER.

CHAP. XIV.

SECT. I.

The Original of the Court of Exchequer, with the ſeveral Officers thereof.

WHen *William* the Conqueror had eſtabliſhed himſelf here, by ſuppreſſing all thoſe that made any Head againſt him; he immediately cauſed the whole Realm to be ſurveyed by Shires and Hundreds ſeverally, as well to underſtand the Woods, Paſtures, Meadows, and Tillages thereof, as alſo for

for the profit of Churches, Mills, Villains, and of all other Commodities whatsoever: The Book of this Survey was by him called *Dooms-day Book*, and is yet remaining in the Exchequer at *Westminster*. Thus saith *Lambard* in his *Archeion:* But others write, *That this Book called Dooms-day-Book, was framed at the Charge and in the days of* Edward *the Confessor*; And that *William* the Conqueror caused it to be kept in the Exchequer, when he established this Court.

The Court of Exchequer was erected and framed by the Conqueror, for the order of his Revenues, after the name of his Exchequer in *Normandy*; though in the manner thereof it differed much from it: For his Exchequer in *Normandy* had not only the Government of the Revenues of the Duke there, but was also his chief Court for the distribution of justice amongst his Subjects, and so continued, until that *Lewis* the Twelfth, King of *France*, in the year of Christ 1499. converted it into a Court of Parliament, consisting of President and Counsellors, and established it at *Roan* in *Normandy*, where it now remaineth. But this his Exchequer at *Westminster*, had then the only Rule and Governance of his Demeasn, and Receits; the administration of Common justice still remaining in the other High-Courts of the King, as it was before the coming of *William* of *Normand*, hither.

But this court of Exchequer is, as it stands now established, a court both of Equity and Common Law: having a court of Equity, where the proceeding is by English Bill and Answer, as it is in the High Court of Chancery; and an Office of Pleas, holding the Common Pleas, after the course of the Common Law.

This court is governed by the Lord High-Treasurer, Chancellor, under-Treasurer.

The

The Lord chief Baron, and three other Barons of the Coif, for the hearing and determining all cauſes in law or equity.

There alſo ſits in the Court another called the Puiſne Baron, who hath no voice in the Court, as to any buſineſs, ſave the taking of the accounts of Sheriffs, Bailiffs, *Auditors*, Receivers, *&c.*

The Subordinate Officers in this Court are,

The Kings Remembrancer, in whoſe Office are the proceedings by Engliſh Bill and *Anſwer*; and there are ſeveral *Attorneys* in that Office for that purpoſe.

The Lord Treaſurers Remembrancer, who hath ſeveral *Attorneys* alſo in his Office.

The Clerk of the Pipe.

The Controller of the Pipe, and ſeveral Clerks there.

The Clerk of the Office of Pleas, in whoſe Office are four *Attorneys*.

The Clerk of the Eſtreats.

The forreign *Appoſer*.

The *Auditors* of the Court.

The Tellers, one whereof is chief, the reſt are Under-tellers and ſubſtitutes.

The Clerk of the Tallies.

The Chamberlains of the Court.

The chief Cryer, and ſeveral other Cryers.

The Uſher and Porter of the Court, and Court-keeper.

The Keeper of the Records.

There are divers ways of proceeding in the Court of Exchequer; as the Office of Pleas, in moſt things ſuitable to the proceedings of the Common

Law in other Courts: the leading Proceſs there, is either a *Subpœna*, or a *Quo minus*, which is to arreſt the body of the Defendant; as a *Capias* out of the Common Pleas, or a *Latitat* out of the Kings Bench.

But with this difference, that the plaintiff in the Exchequer, whether it were in Law or Equity, ought to be either a Tenant or Debtor, or ſome ways accountant to the King: and ſo the end of their Writ concludes, That for default of the defendants giving him ſatisfaction, he is the leſs able to ſatisfie the King. And in their Declarations, they begin with the plaintiff, *Debitor Domini Regis*; and in their Engliſh Bill, debtor and accountant to our Soveraign Lord the King at his Exchequer, always ſuppoſing the plaintiff to be a debtor. But now the Practice in the Exchequer is grown general in almoſt all caſes, eſpecially in *Wales* where no Kings Beneh runs, nor any Proceſs out of the Common Pleas, but onely a *Capias utlagatum*. And their proceeding by *Subpœna* in the Office of Pleas, being eaſie for the Plaintiff, brings much buſineſs into the Office of Pleas.

SECT. II.

A Recapitulation of the Officers and Offices in his Majeſties Court of Exchequer.

THe Lord Treaſurer with the Chancellor and chief Baron, calling others to them, name Sheriffs in *Craſtino Animarum* yearly, by the Statute *Anno* 14 *Edw.* 3. *cap.* 6.

The Lord Treaſurer granteth *Firmam terrarum ſcis pro Domino Rege, quamdiu in manu dicti Domini Regis*

Regis fore contingerint, to ſuch as ſue for it, by his VVarrant made of late to the Clerk of the Pipe; and in old time directed to the Lord Chancellor, or Lord Keeper of the Great Seal for the time being.

He likewiſe ſitteth with the Chancellor, Under-treaſurer, and Barons of the Court; and with them ordereth the matters before them for the profit and ſervice of the King, and diſpatching of ſuits and ſuitors: but the Judgement is onely *Per conſiderationem Baronum.*

The Treaſurer, the Chancellor, the Under-treaſurer, and Barons of the Court, do make orders and decrees of allowances of Penſions, Portions, Rents, Payments, Fees, and conſiderations, thought good by the Court; and upon intricate matters, and matters of equity in the Court, between the King and the party, to bring them to a final end, as is beſt for all parts.

The Lord Treaſurer, and the Chancellor, and Under-treaſurer, and Barons of the Court, do according to his and their diſcretions, puniſh all the Miſdemeanors of the other Officers and Miniſters of the Court, and of all others that abuſe the Court, or the cauſes, the proceſs and appendances of the ſame.

Of great authority is the Lord High-treaſurer, both by *Acts* of Parliament, and other VVarrants: *Que nunc non nobis conſtant*, &c.

The Chancellor:

In the Lord Treaſurers abſence, in the Exchequer-Chamber, he doth all things to the Kings moſt benefit and furtherance.

He maketh VVarrants to any of the Remembrancers, to make all manner of Commiſſions, Proceſs,

and Injunctions, as the Caſe requires, as the Lord Treaſurer doth.

He hath of late referred unto him the over-ſight and rule of Firſt-fruits and tenths: of all compoſitions, bonds, matters and cauſes of the ſame.

In great cauſes of the Court he uſeth to make the Lord Treaſurer privy thereunto, and doth confer with his Lordſhip about the ſame.

The Under-treaſurer.

This Office was erected in the time of King *Henry* the Seventh.

The Under-treaſurer in the time of King *Henry* the Seventh (the report of the remain of the treaſure in the receipt, being brought them to the King at the end of every Term) did cheſt the ſame up, and did *content* every cheſt what ſum and ſorts of money was in it, intitling it as it fell out in courſe, and carried it to the Kings Treaſurer in the *Tower*, and entred the ſame in the Kings Book, which he kept in his Desk; leaving ever in that receipt ſufficient money to pay ordinary Fees, and ſums of money it was charged with, between that and the next Term.

Before the uniting of the Court of augmentations unto the Exchequer, and ſince the death of the then Lord Treaſurer, did make the two Praiſers of all Wares and Merchandiſes ſeiſed by any Informer, as taken up uncuſtomed, and informed againſt in the Court of Exchequer, whereof they make him a bill of appraiſement, and he giveth order whether the owners ſhall have the goods again as they be appraiſed, or whether part or all ſhall be otherwiſe ſold.

The Lord chief Baron.

He is the chief Judge of the Court, and in matters of law, information, and plea, he anſwereth the Bar and all ſuitors.

He giveth all rules, or days for bringing of Pleas, informations, anſwers, replications, rejoynders, and amending of the ſame, as occaſion is offered at the Bar.

He maketh all the orders of the Court, that touch or concern the matters at the Bar, or the ſuit depending in the Court, or is moved by Counſel; and yet with great orderly conſent of the Lord Treaſurer, Chancellor, Under-treaſurer, the other Barons, and the Kings Counſel, as the caſe ſhall require.

In open Court he awardeth commiſſions, proceſſes, injunctions, and all manner of VVrits, and commandeth ſtay and *Superſedeas* of the ſame: and ſuch his rules and orders are entred in the book on the Remembrancers ſide, which they call the *Minute Book*, and there they iſſue out the ſaid commiſſions and proceſs.

Out of Court he alſo maketh Warrants to any of the Remembrancers whom it concerns to make out any manner of commiſſion, proceſs, injunctions, *Superſedeas*, Writs of priviledge, or ſuch like.

In the Court he ſets fines and amerciaments upon ſheriffs, coroners, eſcheators, commiſſioners, purſevants, makers and aiders of reſcues, that do not execute, ſerve, return, deliver, or obey the Kings Commiſſions, proceſſes, injunctions and writs, as to every of them is due.

He likewiſe commits in open Court and in the Exchequer-chamber, ſuch as be indebted to the King,

or that miſs-behave themſelves in the Court, or that diſobey the Kings Proceſs; that are in contempt for not keeping of their days, or the order of the Court, or otherwiſe deſerve to be committed upon any other caſe.

In the afternoons in the Term-time, he ſits upon all Tryals by *Niſi prius*, in *London* in the *Guild hall*, which come thither out of the Remembrancers Office, or the Office of Pleas.

He appointeth days for argument of all demurrers at the Bar.

He commandeth all the Officers under the Bench to make ſearch for the King and the Court, and to give their attendance on the Barons in the afternoons at *Weſtminſter*, to ſet fines and amerciaments on the Sheriffs; and to inform the Court of what is meet, or otherwiſe to confer with them: or otherwiſe to attend at his Chamber, upon him or his Fellows, for conference or information, about ſome ſpecial matters there under conſideration.

In open Court he and his Fellows take all manner of recognizances without Fee, either for the Kings debt, for appearances, for obſerving Orders, for keeping the Decrees of the Court, and ſuch like: But of every Recognizance taken out of the Court, he hath *6 s.* and 8 *d.*

He taketh the preſentation of all Officers of the Court that are under himſelf, and of the Mayors and Sheriffs of *London*, and ſeeth them take their Oathes, which are read unto them by the Kings Remembrancer.

He taketh the Declaration of the ingroſſed accounts of the late augmentation-revenue in the Counties of *Northumberland*, *Richmond*, *Durham*.

Receivers of *Nottingham*, *Derby*, *Lincoln*, &c.

Receivers of *Cheſter*, *Lancaſter*, *Weſtmerland*, and *Cumberland*. Receivers

Receivers of *Northampton* and *Rutland.*
Receivers of *Leiceſter* and *Warwick.*
Receivers of *Salop*, *Wigorn*, *Stafford* and *Hereford.*

Which are made before him, by the *Auditors* of the ſame Shires.

He with the Kings *Attorney*, *Pro miſſis parcandis*, doth ſet all the Fines upon compoſitions, upon any that is informed againſt in that Court, by any popular action or penal Statute; upon payment whereof the defendant hath his *Quietus eſt.*

The ſecond Baron.

In the Lord chief Barons abſence, he anſwereth the Bar, in matters of orders and courſe, as the caſe requireth; and in matters of Law, difficulty or importance. But matters of great importance, he referreth to the Lord chief Barons coming, until the Court be full.

But he and his fellows, in the abſence of the Lord chief Baron, may do all things in court, that the Lord chief Baron can do, although there be but two of them: and it is good in law *per conſiderationem Baronum*; yet in matters of great moment, they will reſpite the ſame until further day to adviſe thereof.

He doth alſo take all manner of Recognizances out of Court, as the Lord chief Baron doth, and hath his Fee of ſix ſhillings and eight pence, for every one ſo taken; and in the Lord chief Barons abſence, he taketh all recognizances in Court.

He taketh the Declarations of the ingroſſed accompts of the receivers of the late *Augmentation*-revenue in the County of *Kent*, *Surrey*, *Suſſex.*

Receivers of *London*, *Middleſex.*
Receivers of *Hartfordſhire* and *Eſſex.*

Receivers of *Norfolk* and *Huntington*.
Receivers of *Suffolk* and *Cambridge*.
Which are made before him by the *Auditors* of the ſaid Shires.

He caſteth up the ſums of ſuch Sheriffs forreign accompts, Eſcheators accounts, Collectors accounts of cuſtoms, Subſidies, and Fifteens, as any of the *Auditors* bring unto him; in the head of which account, the Barons name is ſet that examined them; and his addition thereunto is *Auditor*: and the *Auditor* ſets his name under the Barons name, with the addition of *Clericus*: ſo that the three Under-barons were anciently accounted *Auditors*, and the *Auditors* their Clerks.

The third Baron.

He may do all things in Court in the abſence of the two firſt, as they might do: but in both their abſences, he is cautious of medling of any buſineſs but what is ordinary; referring over matters of greater moment, to a full Court.

He may take Recognizances to the Kings uſe, as the other two, receiving the ſame Fee.

He taketh the declarations of the ingroſſed accompts of the Receivers of the late augmentation-revenues in the Counties of *Somerſet*, *Dorſet*, *Cornwal* and *Devon*; and examineth the letters, and caſteth up the accompts which any of the *Auditors* bring unto him.

The fourth Baron.

He taketh the Oath at *Simon* and *Judes* day of the two *Attorneys* the new Lord Mayor then putteth in, *ad recipiendum mandatum curiæ*; and likewiſe of the Deputy

Deputy-eſcheator and Gauger of the late Lord Mayor, Eſcheator and Gauger of *London*, that they ſhall make a true accompt of the ſaid offices, and ask no petition nor allowance, but that which is good and true.

He taketh the Oaths of High-ſheriffs, Under-ſheriffs, and all other Officers, *&c.*

He taketh the appoſals of the Sheriff of their ſummons that come in, and are ſworn to account, appoſing every Sheriff what he will ſay to every ſummons which is written to him out of the Pipe; who upon the ſaid appoſals anſwereth unto ſuch ſums as he will pay and charge himſelf with, confeſſing ſo much due or received: and to the other ſums he will anſwer *O.Ni.* as confeſſing *Oneretur niſi exoneretur.*

He informeth the Bench and the Kings Counſel both in Court and out of Court, from time to time, what the courſe of the Exchequer is, that they order nothing contrary to the ſaid courſe, for the preſervation of the ſame, and to ſave the Kings Prerogative and benefit.

He taketh the Declaration of the ingroſſed accounts of the receivers of the late augmentation of the County of *York.*

Receivers of *Oxon* and *Berks:*

Receivers of *Buckingham* and *Bedford.*

He likewiſe examineth the letters, and caſteth up the accounts of ſuch Sheriffs, forreign accounts, *&c.* as the two other Barons, *&c.*

He taketh the Bails of Sheriffs, Bailiffs of liberties, and Eſcheators, that keep not their days of Preſixions, but come into the Court by attachment, and give ſureties to be ſworn to account; and aſſeſſeth the fines of all ſuch Bailiffs, *pro Libertate reprehenda*; which be very ſmall, never above five ſhil-

lir

lings, and ſometimes but twelve pence, or two ſhillings; and for the Sheriffs Fines, it is always five pounds a day, for his next four days after his day of prefixion, that he faileth to come and be ſworn to his account.

The Chamberlain.

Theſe are the next Officers, and have their place in Court next to the Barons, where they may ſit dayly, if they pleaſe, but have nothing to do with the cauſes of the Court.

But yearly in *Craſtino Animarum*, they keep their places at the election of Sheriffs; and may give their Votes for preferment, or ſtay of men nominated to be Sheriffs, as the Barons and Juſtices do.

They have charge of the Treaſury with the Lord Treaſurer, and have likewiſe Keys thereof, where all the ancient leagues between the Kings Progenitors, and other Princes and States either are or ſhould be kept; and where the book called *Dooms-day-Book*, and the ancient Records and Pleas *de Juſticiariis Itinerant. et de foreſtis*, and of divers other matters, do remain.

The Kings Attorney.

He is made privy to all Pleas extraordinary that riſe upon proceſs of the Court, and to the replications and rejoynders growing upon the ſame.

In his own name he exhibiteth into the Court for the King, all informations of concealments of cuſtoms, ſubſidies, ſeiſures, receipts; and of intruſions, waſtes, ſpoils, incroachments, and annoyances done upon any of his Majeſties lands, tenements, woods, rents, rights, and Hereditaments; and

and upon any penal Statutes, Forfeitures, or breach of Covenants.

The Office of the Kings Remembrancer.

The Kings Remembrancer yearly, at certain days prefixed in Term-time, calleth to account the great accountants, by his Book called, *Statutus magnorum computantium, &c.* as the Cofferer, Maſter of the Wardrope, *&c.*

And he calleth by the ſame book all Searchers *ad reſpondendum Domino Regi medietatem omnium foris facturarum, in officio ſuo contingent, &c.* and all Collectors *ad computandum*, &c.

In this Office are alſo Proceſs made out againſt ſuch Collectors, their bodies, goods and Tenements, that come not in to account, and pay not their money as appointed.

He taketh Recognizance before the Barons to the Kings uſe, and upon breach thereof, Inrolleth and maketh out Proceſs againſt ſuch perſons as have forfeited the ſame.

The Remembrancer informeth the Lord Treaſurer, Chancellor, or Vice-treaſurer, as he is required, of all debts and arrearages of any of the ſaid accountants, and of Bonds or Recognizances in his Office due unto the King.

And according to order he ſtayeth or ſendeth out Proceſſes for the ſaid debts and arrearages: and in his Office, any perſon vexed with Proceſs may plead unto the ſame, with diſcharge thereof; with which pleading the Kings attorney is made acquainted, and either referreth the ſame over unto the court, or confeſſeth it.

In his Office are proſecuted Informations upon penal Laws, Intruſions, Concealments, and the like.

like. And the Kings Remembrancer maketh the bill, roll of Compositions, *pro misis parcandis* upon penal laws.

In this Office are made out commissions into the Countrey, authorizing Commissioners by *Dedimus potestatem*, to take bond to the Kings use, where the party is to be bound with Sureties, and cannot come up, or bring his Sureties to be found for him; the return whereof is recorded and filed here: which Commissions are made by Warrant from the Lord Treasurer, Chancellor, Vice-Treasurer, the Kings Attorney, and the court.

Out of this Office issueth all proces, commissions, decrees, *&c.* and are here recorded.

Here is likewise the Record made of every Bishops death, *&c.*

The Kings Remembrancer every *Easter* and *Michaelmas* term, taketh the proffers of all the Sheriffs and Bailiffs, *&c.* before the Barons in the receit, and marketh the defaults, *&c.*

He readeth the Oaths that all the grand Officers of the Exchequer do take, and the Oaths of the under-Officers; and maketh the great Prerogative-Writ of the court, for all Officers and Ministers of the Exchequer that be sued in any other court.

The Remembrancer entreth Judgement in all causes depending on his side, both for the King and the party, according as the court doth give direction; and without order of the court, Judgement in all Pleas of course.

The Kings Remembrancer sendeth the red book by one of his Clerks, with the fourth Baron, most commonly; and in his absence, with the next Baron, into the Kings bench, and Common Pleas, in the Term-time, to remove any matter sued there against any Officer, Minister, Servitor, or any of their

their men, or any of the accountants there, that prayeth his priviledge in time in the said Court: upon which red-book shewed, and the party so testified by the Baron to be of the Court aforesaid, his priviledge is ordinarily allowed.

Into this Office are received the certificates of all Subsidies, Tenths, and Fifteens granted to the King by the Parliament.

The Remembrancer sendeth every *Hillary* and *Trinity* term, several Parchment-books to all the customers, controllers, surveyors, and searchers of the Ports, and Creeks throughout *England*; to make the first and second half years Entries in the same of the Kings customs and subsidies, and the cockets thereof: and every *Easter* and *Michaelmas*-term he receiveth the same again of the said Officers, upon Oath that they have made the true Entries of the same.

Into this Office are also brought from the Barons and Auditors of all Sheriffs, forreign accounts, Collectors accounts of subsidies and fifteens, and the Cofferers accounts; where there are Entries made thereof, and process made thereupon till they be discharged.

The Remembrancer sendeth commissions of *Nisi prius*, by the Kings Attornies Warrant onely, upon tryal of any matters within his Office, at the Assizes in the County, *Ad tenorem Recordi*, under the Exchequer-seal. But at the *Nisi prius* in *London*, at *Guild-hall*, he hath the Record of his Office brought thither without commission, because the Lord chief Baron sitteth thereon.

The

The Lord Treasurers Remembrancer.

This is the second Remembrancer of the Exchequer, and hath his Office chiefly established upon the execution of the Original (save for the great accounts, the Customers, Controllers and Searchers) that is yearly streated to him out of the Chancery, and is called *Extractus Cancellarie*, being the yearly Streat, under the Great Seal of *England*, of all Sheriffs and Escheators Patents; of the Patents of all Customers, Controllers, and Searchers; Receivers, Reeves, Beadles, Bayliffs, Collectors, Stewards; of all grants of Lands and Tenements for life, in Fee-simple, Fee-tail, general or special: of all Denizonships, Creations of *Arch*-bishops and Bishops, Erections of any *Abbeys* and Priories, Colledges, Chantries, Hospitals, Schools, and Corporations: of all Custodies of any Honors, Castles, Lordships, Mannors, Chases, Forrests, Parks, special and general; after the course of the Chancery and *Ouster le Mains*; of all Licenses of *Alienations*, going over-Sea, Transportations, Introductions, Retains, Imparkings, and Inclosures: Of all Pardons, *Alienations*, Intrusions, Trespasses, Outlawries, Felonies, Murders, Misprisions, Treasons, and Forfeitures: of all Restitution of Blood, Goods, and Chattels, Lands and Tenements: Of all leases for term of life or for years: of all Fines gross and small: of all VVrits of Restitutions: of Temporalities of any *Abbey*, Priory, *Arch*-bishoprick, Wards, and seized lands and tenements: of all *Diem clausit extremum*, *Mandamus*, *Melius inquirendum*, &c. *quæ plura.*

Out of this Original, this Remembrancer doth make a book called a Roll of Proffers, which is a Record,

Record, and part of the Remembrance of every year: and when the ſaid Proffers are done, he maketh Proclamation in the Receit before they ariſe, That all Sheriffs, Bailiffs of liberties, *&c.* do pay their Proffers, as they are accuſtomed *infra menſem*; and keep their days of prefixion for their accounts, in the Exchequer, according as by the court they are appointed, on the peril, *&c.*

And hereupon by his book called the ſcroll of accounts, made out of the Rolls of Proffers; and other parts of the yearly Remembrance, called *Dies datus Vice com. & Eſcaet. ad computand. poſt profra*: Every *Michaelmas*-Term he doth call all Sheriffs, *&c.* of the laſt year, to come to account, ſome on one day, and ſome on another, as the ſeveral days of prefixion are, and anciently have been ſet by the court, and as they ſhould be able to finiſh their accounts.

Out of the Chancery-Original, the roll of Proffers, *Dies dat. Vice com.* &c. the roll of accountants, and other records, he yearly maketh a book called the roll of VVrits, which is alſo a part of the yearly remembrance made in his Office; in which he inrolleth all Writs, &c. returnable in the four Terms every year.

Alſo out of the Originals from all Receivers, Bailiffs, Reeves, Collectors, and Beadles, Patents of any of the Kings lands or tenements, he doth inroll and write *Venire facias ad computand.* or *Diſtringas ad reddend. computum*, from all Grants of Honors, Caſtles, Lordſhips, Mannors, Lands and Tenements, granted by the King to any for life, in Fee-ſimple, Fee-tail, general or ſpecial: He doth inroll and write *Diſtringas ad faciend. fidelitatem, et ad faciend. homag. et fidelitatem*, or a VVrit of reverſion when the Tail is ſpent; and otherwiſe as he

the case requireth. From all Denizenships he maketh *Distringas ad faciend. homag.* From all custody of Lands and Tenements, or Farms, he doth inroll and write *Distringas ad faciend. fidelitatem*; or *homag. & fidelitatem*; or, *ad respondend. de Relevio*, from all pardons of Outlawries, *Attainders*, Felonies, Murders, Treasons, Misprisions of Treasons.

Likewise he doth Inroll and write *Distringas ad respondend. de omnibus quod ad Regem pertinet*, &c. *vel certiorari quæ bona & catalla A. B. habuit*, &c.

From all Licenses of Alienations, he doth inroll and write *Distringas ad faciend. fidelitatem*; or, *ad audiend. & terminand.*

He doth inroll and write Writs of Restitution of any Temporalities.

Also he doth inroll and write *Distringas ad reddend. computum de exitibus temporal.* &c. and *Certioraries*; sometimes *Quis recepit exitus & profic. temporal.* &c.

Further, from the said roll or proffers, he doth inroll and write process against such as pay not their proffers, *Infra mensem*, &c. *As Capias pro contempta*, with a *Fieri facias pro profera*, &c.

And from the said scroll of accounts, grounded upon *Dies datus* aforesaid, every *Michaelmas*-Term, he maketh a Record against Sheriffs that make default at their days of prefixion, of five pounds for every day of payment after he makes default, while four days next be past, which is set down in the Pipe to be charged upon them, or is levied upon a *Fieri facias*, except the Kings letter come for the discharge of such amerciaments; and then he doth inroll and make out an attachment for his body, goods, chattels, lands and tenements, while he cometh in to account, and putteth in bail to end and finish the same: and against all Bailiffs of Li-

berties

Liberties that make like default, he inrolleth, and maketh out the like proceſs as againſt a Sheriff.

This Remembrancer hath ſet down in his book called *nomina Vic.* by the Clerk of the Pipe every year the debts of all Sheriffs, Bailiffs of Liberties, and men of certain Towns, that are found and caſt upon their accompts, entred in the Pipe; and in another of his books, called *nomina Eſcaetor.* he hath every year the like debts of Eſcheators ſet down by the ſame Clerk of the Pipe; for all which he maketh attachments, and other ordinary proceſs of the Court, for the levying of the ſame, as the caſe doth require.

In his Office he hath alſo a third book called *Schedula Pipe*, wherein is ſet down by the Clerk of the Pipe all debts of ſuch perſons as upon the appoſals of the Sheriffs of their ſummons be ſaid by them to be dead; to the end he ſhould make a *diem clauſit Extremum*, after the death of ſuch debtors, to the Sheriff, which is the award of the Court; and of purpoſe to enquire what day and year they dyed, and what goods and chattels, and of what value they had, at the time of their death, and to whoſe hands the ſame came and now be, and to ſeize the ſame in whoſe hands ſoever they be, and to levy the ſame debts, and to have them before the Barons ſuch a day, *&c.*

And if their goods and chattels be not ſufficient to pay the ſaid debts, then to enquire what lands and tenements, and of what yearly value, they had at the day of their deaths, or when they became debtors, or ever ſince; and to whoſe hands and poſſeſſion the ſame came after their deceaſe, and in whoſe hands they now be; and the ſame to ſeize, in whoſe hands ſoever the ſame be, and keep ſafe, and to anſwer the iſſues and profits of the ſame, until

the said debts be satisfied and paid, or that he otherwise is commanded; and to distrein all the Executors of the Testament of the said debtors, as Administrators of the goods and chattels that were his; and also the heirs and Ter tenants of the same debtors, if they have not Executors to answer the same debt: and all to the intent the same might this way be paid, that could not by the *Summons* of the Pipe be so levyed.

And likewise the Clerk of the *Pipe* putteth into this Remembrancers book, called *Schedula Pipe*, other great and special debts, for which the Court will have speedier process made then by the *Summons*, that the money may be the sooner paid, and answered into the receipt.

Also he receiveth into his Office all Streats of Fines, Issues and Amerciaments sent into the Court, from the Kings Bench, the Common Pleas, Justices of Assize, and Justices of the Peace throughout all *England*.

Further, he taketh on his side all Sheriffs forreign accompts, and the accompts of Bayliffs, Escheators, Customers, and the Collectors of subsidies and fifteens, and the Cofferers accompts, as the Kings Remembrancer also doth; and taketh the petitions of the accomptants for allowance, without the privity of the Court, that being matter of record and president.

By warrant from the Lord Treasurer, Chancellor, Vice treasurer, Lord chief Baron, or Kings Attorney, out of Court, and by order of the Barons in Court, he maketh all manner of Process, Writs, Commissions, and Injunctions for matters on his side depending.

There are many other matters belonging to the Offices of both these Remembrancers, which practice will

will daily experience you in, besides the business unto them assigned by the Articles for the uniting of the late Court of Augmentations unto the Exchequer; which Articles I shall set down at large, referring you unto them.

The Attornies and Clerks of the Kings Remembrancers Office.

These follow the proceedings by English Bill, as the Clerks in Chancery do, and are retained in all causes and suits brought here between party and party, Plaintiff and Defendant.

SECT. III.

The proceedings in the Exchequer by English Bill.

THE manner of this proceeding somewhat follows the practice of the high Court of Chancery, save that the Chancery is always open, and their process bears Teste as well out of the Term as in the Term; which this doth not.

This Title of the English Bill in the Exchequer is directed,

To the Right Honourable the Lord Treasurer for the time being, the Chancellor, the Lord chief Baron of the Exchequer, and the rest of the Honourable Barons there; as thus:

To the Right Honourable *Thomas* Earl of *Southampton*, Lord High-treasurer of *England*, *Anthony* Lord *Ashly* Chancellor of his Majesties Exchequer, Sir *Matthew Hale* Knight, Lord chief Baron of the

Exchequer, and to the reſt of the Honourable Barons there.

An Engliſh Bill lieth there, in caſe where the Plaintiff ſuppoſeth he hath right to recover the poſſeſſion of Lands or Goods detained from him, or debts due unto him; or to have remedy for ſome other wrong done unto him by the Defendant; and that he hath no evidence nor ſpecialty to ſhew forth, nor can make any ſuch proof as the ſtrict rules of the common Law requireth to recover or have remedy for the ſame; but alledgeth that it lieth in the Defendants own knowledge, and that he will confeſs the truth thereof in his anſwer.

And in caſe where the Plaintiff is ſued at common Law for the poſſeſſion of any lands, or for any goods, chattels, debts, or other things againſt which he can make no ſufficient defence by ſtrict courſe of the common Law, or that he hath paid a debt, or ſatisfied a bond, and hath no witneſs thereof, and the Defendant ſueth him again at Law for the ſame debt; ſo that in Equity and good Conſcience he ought to be relieved, and get either wholly diſcharged, or the rigour and extremity of the common Law moderated and mitigated; and ſuppoſeth that the Defendant will confeſs in his anſwer the truth of the matter alledged in the Complainants Bill.

In this Court the Clergy frequently exhibit Engliſh Bills againſt ſuch as refuſe to pay them their ſmall Tythes, to make the Defendants ſet them forth upon Oath, and for which they cannot ſue at common Law.

All ſuch perſons as exhibit any Engliſh Bill into this Court, ought to be priviledged either in perſon, as an Officer or Clerk of the Court, or Servant to ſome of them, or an accomptant or debtor unto the King, or otherwiſe; or elſe the cauſe ought to concern

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the King, in the Inheritance, Poſſeſſion or Intereſt of any Lands, Tythes, Offices, Goods, Chattels, or Debts, wherein the Plaintiff likewiſe pretendeth to have Intereſt in, Right of the King; or if the Plaintiff be ſued by Engliſh Bill, or action, or extent, or other proceſs in the ſame Court for the ſame matter.

But now, whether the Complainant be any way really priviledged or not, is not ſo much material; onely he muſt ſuppoſe it in his bill; and therefore every plaintiff muſt beg in his bill after this manner:

Humbly complaining *&c.* your Orator *A. B.* of, *&c.* Debtor and Accomptant unto our Soveraign Lord the King, at his Majeſties Exchequer, as by the Records of the honourable Court appeareth, *&c.* or to the like effect, always ſuggeſting himſelf a debtor, *&c.*

The Kings *Attorney* may exhibit Engliſh bills in the Exchequer for any matter concerning the King, in Inheritance or profits; and in like manner any perſon that findeth himſelf grieved in any cauſe proſecuted againſt him, for or on the behalf of the King, or any Patent by grant of the King, may exhibit his Engliſh bill againſt the Kings *Attorney* and ſuch others as are intereſted in the cauſe, to be relieved in equity. In which caſe the plaintiff muſt attend the Kings *Attorney* with a copy of his bill, and procure him to anſwer the ſame; and the Kings *Attorney* may call any that are intereſted in the cauſe, or any officer or others to inſtruct him herein touching the making of his anſwer to the ſaid bill, ſo as the King be not prejudiced thereby: and the Kings *Attorney* anſwers without Oath.

The uſual leading proceſs in this Office is a Writ of *Subpœna*, wherewith in all bills between party and party, the plaintiff muſt ſerve the defendant, or cauſe him to be ſerved.

But if the Defendant be a Peer or Baron, or Lord Spiritual or Temporal, or any Dutchess, Countess, &c. such are to be served with a Letter under the hand of the Lord Treasurer, Barons, or some them, whereby the Defendant must be required to appear at a day certain, conteined in the Writ or Letter: which proces of *Subpœna* may be sued forth either before or after the bill Exhibited, so that you have your bill ready to file at the return thereof. And if the Defendant do not appear at the day of the return of the Writ, then upon Affidavit made of the serving thereof, an Attachment is made of course against the Defendant for his contempt, which must be made to the Sheriff of the proper County where the Defendant doth, or last did inhabit; and upon the Sheriffs returning *non est inventus*, there issueth out an *Alias* Attachment, and *Pluries*; and upon the return of the *Pluries*, an Attachment with Proclamation, and then a commission of Rebellion, directed to such Commissioners as the Plaintiff will name, for which commission there must be a warrant of the Court.

And when a Letter is made and sent to any Lord, Baron or Bishop for appearance, and if he will not appear upon the Letter, then a proces of *Subpœna* must be served; and upon default, then proces of contempt aforesaid. And the like course of proces is to be prosecuted against the Defendant, at the suit of the Kings Attorney.

When the Defendant doth appear, if the Bill be not put in, he may move to be dismissed with costs; whereupon the Court doth usually give three or four days unto the Plaintiff to put in his English Bill; or else the Defendant to be dismissed with costs, upon a bill of costs to be tendred by him to one of the Barons to be taxed.

And if the Defendant stand in contempt, and come in

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to appear upon proceſs of contempt, he muſt pay coſts according to the number of the proceſs which have been proſecuted againſt him; which uſually is ten ſhillings upon each Attachment: ſo that if he appear upon the Proclamation, the coſts is forty ſhillings; if he ſtand out to a commiſſion of Rebellion, the coſts is five marks.

After the Defendant hath appeared, he hath eight days after of courſe to make his anſwer to the Complainants bill; and if he anſwer not within that time, a Rule is given of courſe in the book of appearance for an attachment within four days, the Defendants Attorney being called unto for anſwer; but uſually the attachment is of courſe at the eight days end.

If the Defendant do demur upon the bill, for want of ſufficient matter conteined in the bill, or put in a Plea in Bar of the proceeding upon the bill, the Plaintiff if he will maintain his bill, muſt move the Court for a day to hear the Councel on both ſides, and the bill and demurrer (if need be,) if the Councel do not agree upon opening the matter.

If the Defendant do plead any matter to bar the proceedings upon the bill, (other then matter of Record of the ſame Court,) he muſt be ſworn to his plea, as he muſt to his anſwer, if he anſwer in the chief, of what quality ſoever the Defendant be; except it be the Kings Attorney, or a corporation ſued by the name of their corporation, who anſwer under their common Seal.

Alſo if the Defendant do make an inſufficient anſwer, the Plaintiff muſt put in his exceptions in writing, and move the Court to give the Defendant a day to amend, or maintain his anſwer; in which caſe if the Defendant be in Town, he is to take notice by the order, and to obey the ſame; but if he be not in Town, he is to be ſerved with a *Subpœna ad faciendum*

meliorem responsionem: If his Answer be over-ruled upon hearing, an Attachment may be made against him for an insufficient answer.

The Defendant either upon Demurrer, Plea, or insufficient Answer, if he cannot maintain the same, but that the Court doth order him to make a better answer, he must pay such costs to the plaintiff as the Court shall think fit; which usually is 40*s.* or 7 nobles: and if he maintain his plea or demurrer, he is to be dismissed with costs.

If the Defendant putteth in a plea to disable the person of the plaintiff, wherein he pleadeth matter of record, as an outlawry, or the like, which is no bar to the matter, but a delay of proceeding until the Plaintiff be enabled to sue; he must together with his plea produce the record which warranteth the same; as if he plead an outlawry, he must with the plea bring the *Capias utlagatum* under Seal; and so likewise of an Excommunication.

After the Defendant hath appeared and taken a Copy of the Bill, if he find that he cannot directly answer thereunto without sight of his evidences, which are in the Country far off; or if there be more then one Defendant, and one or more appear, and the rest do not appear, and the Defendants that do appear cannot answer without conference with the rest that are in the Country; upon Affidavit made upon such or the like allegations, he may have time to answer until the beginning of the next Term, either in person or by Commission, as the Court shall think fit.

Or if Affidavit be made that the Defendant is aged, impotent or sick, and not able to travel, he may have a Commission to take his answer in the Country.

But now for the more ease of such as dwell far off in the Country, Commissions are made of course to take their answers in the Country, wherein the

Plaintiff

Plaintiff may name one or two Commissioners, to sue the Defendant sworn to his answer; and notice must be given to the Plaintiff or his Commissioners, of the Execution of the Commission, acquainting them of the day and place certain days before

If the Defendant have matter to plead to an English Bill, and be not able to come to put it in upon Oath, he may have a special Commission to Commissioners to take his plea, and the Plaintiff may proceed upon plea as upon answer, if he think good; but if the Defendant have a Commission to take his answer or plea, he may not afterwards demur.

When the Plaintiff exhibits his bill to be relieved against a suit at Law, or in the Ecclesiastical Court, and the Defendant stands in contempt either for not appearing, or for not answering; or if he desire to have a Commission to take his answer, the Court upon the motion of the Plaintiff doth usually stay the Defendants proceedings at Law until he have answered the Plaintiffs bill, and the Court taken further order.

If the Defendant be a prisoner, and be served with process to appear to a bill, and will not appear; or if he do appear and be in prison, and will not answer, the Court doth usually order that he be kept close prisoner until he yeild obedience unto the Court.

After the Defendant hath answered (or before, if there be good cause) the Court doth grant Injunctions either for quieting of possessions, or stay of suits both at Common Law, and in the Ecclesiastical Courts, until the hearing of the cause in equity, or other order upon good cause shewn.

If a Defendant demur with an answer over to the matter of the Plaintiffs Bill, the Plaintiff may thereupon proceed to bring the cause to hearing, and the Defendant at the hearing may stand upon the

demur until the Court do over-rule that; but after the answer put in, the Court will allow no Exception to the Jurisdiction.

If the Defendant doth answer fully, the Plaintiff may, if he will, go to hearing upon bill and answer, and may move the Court to have a day of hearing appointed; which day of hearing being set down, he serves the Defendant with a *Subpœna ad audiendum Judicium*, to attend the hearing. Now if the Plaintiff go to hearing upon bill and answer, he must admit the Defendants answer to be true in all things, aswell in that which is denyed, as that which is confessed.

If the Plaintiff do not finde matter confessed by the Defendant in his answer, whereupon he may proceed to hearing, then he must reply to the Defendants answer, maintaining his Bill, and denying and traversing the material points of the answer; wherein he may also adde such further matter as shall be pertinent and necessary for him to prefer for the strengthening of his bill, and avoiding of the Defendants answer, and must serve the Defendant with process of *Subpœna* to rejoyn to the said replication, except the Defendant be ordered to rejoyn *gratis*, as sometimes it is.

When the cause cometh to hearing upon bill and answer, and the Court seeth no sufficient matter confessed in the answer to proceed upon, the Plaintiff may desire that he may reply and proceed to proofs, and the Court will allow him so to do, especially where the Kings Attorney is Plaintiff for the King.

If there be more Defendants then one, and they put in several answers, the Plaintiff may reply to them all in one replication; but if the cause of suit be Joyne, and some of them answer, and others do delay their answers, the Plaintiff cannot reply till all

all have answered; for if he do, he waves his proceedings against the rest, and he cannot have a decree against some of them without the others: But if the cause of suit be several, the Plaintiff may reply and proceed to hearing with some of the Defendants, and proceed with the rest afterwards.

When a Defendant is to rejoyn, if there be no new matter in the Replication, he is to rejoyn of course to maintain his Answer for formality; but if there be new matter in the Replication, he must rejoyn specially to that matter; And likewise if there arise new matter in the Defendants rejoynder, the Plaintiff must sur-rejoyn to that; and so as long as new matter doth pertinently arise in the pleading, they must proceed, rejoyning and sur-rejoyning until every material point be put in perfect issue.

When the Plaintiff, and Defendant are at issue, the Plaintiff, if he will, may proceed to hearing upon records, and without examination of witnesses. and the Defendant may nevertheless examine witnesses, if he will, in time convenient; or if there have been any former examinations in the same cause, either between the same parties, or any other under whom they claim, either in the same Court or any other, the Plaintiff or the Defendant may move the Court, and desire to have them allowed, to be used for evidence at the hearing; in which case the Court will give a day to the other side, and upon hearing of both sides, do allow or disallow them, as is then thought fit; and accordingly they may prepare themselves for proofs more or less, as they see cause.

When the Defendant is served with process of *Subpœna ad rejungendum*, and doth not appear, the Plaintiff upon *Affidavit* made in the term-time of serving the *Subpœna* (if there be no new matter in the Replication) may have a Commission alone, if the

Defendant

Defendant will not joyn within a certain time, and then the Plaintiff may have commission to such as he shall nominate to examine his VVitneſs.

But if the defendant joyn in commiſſion, then either ſide is to name indifferent Commiſſioners, and each party to chuſe two of the four named by the other; and the commiſſion is to be directed to thoſe four agreed upon, and the Plaintiff is to have the carriage of the Commiſſion, and is to give fourteen dayes warning (or ſuch other notice as is agreed upon) of the day and place of the Execution thereof, except there be a day and place appointed in the commiſſion: which ſometimes is done by agreement of the Sollicitors on both ſides, or by order of the Court.

If the one ſide will examine VVitneſſes by commiſſion, and the other will not, yet he that will not examine may joyn in commiſſion to ſee an indifferent examination, if he will; and therefore ſhall have warning of the day and place.

If the Defendant make default, and do not joyn in commiſſion at the firſt, yet if he come afterwards, and can ſhew any reaſonable cauſe why he did not joyn before, the Court will allow him to examine his VVitneſſes in reaſonable time; or if a commiſſion be taken out by one or both ſides, and not executed, but in part executed, where there is no wilfull default in the parties, but by ſome other accident the Execution is prevented, the Court upon motion, and proof of the Allegations, will grant a new commiſſion; but if either party will willfully neglect to examine, for delay, and to gain time, or to hearken and learn what hath been examined and proved on the other ſide, that he may the better prepare his Witneſſes and Interrogatories for a croſs examination; in ſuch caſes the Court will give no favour to the

party

party that ſhall ſo willingly or purpoſely be negligent.

In caſe where one ſide hath examined all his Witneſſes, and the other hath not, but obteineth a new Commiſſion, that party that examined may joyn in a new Commiſſion, without charges, to ſee the examination.

Such witneſſes as live, or are in *London*, may be examined on either ſide at a Barons Chamber before him, at any time before publication; and either ſide may have proceſs of *Subpœna* to bring their witneſſes before the Barons to be examined, and the like Proceſs or the Commiſſioners warrant to bring their witneſſes before the Commiſſioners.

Such witneſſes as are to be examined before the Barons, muſt be ſhewn to the other ſide, or their Attorny in Court, before their examination, and a note muſt be given of their names, and places of abode; to the end that either ſide may examine them if they will, and may know who ſwears againſt them.

Before any examination can be had, the parties that will examine witneſſes muſt prepare their Interrogatories in parchment ingroſſed, to be exhibited before the Commiſſioners or the Baron before whom they will examine; and the Interrogatories muſt be drawn according to points in iſſue by the bill and anſwer, and other pleadings: and they muſt not examine upon any thing that is not in the pleadings; if they do, it is to be ſuppreſſed: and there muſt be no alteration of any Interrogatories, nor addition of any after the firſt examination; but if there be further examination, that muſt be upon the ſame Interrogatories that were firſt exhibited; and if any examination be taken otherwiſe, it muſt be ſuppreſſed, whether it were taken by commiſſion or in Court, except it be ſo appointed by ſome ſpecial order of the Court.

If

If a Witness be examined on one side, and after be served with process to be examined on the other side, and do refuse to be examined, the Court will not allow his Depositions to be used, because he hath shewed himself to be partial.

After the Witnesses be examined on both sides, there must be order for publication of their Depositions, either by consent of both sides, or by motion of the one side, and a day given to the other side to shew cause why publication should not pass; at which day if nothing is said to the contrary, they are published, and the cause is to be set down afterwards for the hearing, such a day as the Lord Treasurer and the Barons shall appoint.

After a day is set down for the hearing, the Plaintiff must serve the Defendant with a *Subpœna ad audiendum Judicium*, returnable at the day and place appointed for the hearing: And in the mean time, the Sollicitor ought to abbreviate the pleadings, and prepare the breviats of the pleadings, and proofs of each side, throughly to inform his Councel.

Now at the day appointed for the hearing, the Bill of Causes is to be made ready, and to be delivered to the Lord Treasurer, Chancellor, and Barons in Court, wherein the Causes are to be set down in order as they were appointed to be heard; and so the Court doth call for them as they lye in the bill; and if both sides be ready to proceed to hearing, the Plaintiffs Councel opening the material points in the bill, and the Defendants Councel opening his answer, and after debating thereof on both sides, for the full opening of the matter in question, the Plaintiff is to make his proofs, which are to be read by his Attorney in Court, and the Defendant is to do the like: whereupon the Court doth judge *secundum allegata & probata*; as if there be good matter alledged and

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set forth in the Bill and Replication, and sufficiently proved there by confession of the Defendant in his answer, or by witnesses, records, or other evidence, which cannot be disapproved by the Defendant, the Court doth make a decree for the Plaintiff: but if there be good matter set forth, and not proved, or good matter proved, but not set forth in the pleadings, the Defendant and the cause is dismissed.

Sometimes the cause is dismissed upon opening for want of sufficient matter, or for that it is meerly tryable at the common Law; and sometimes when there is both matter of Law and equity, the matter of Law is referred to trial at the Exchequer-bar, and the equity of the cause is retained until the hearing.

And sometimes when the question is touching accounts and reckonings which are intricate, the cause is referred to Auditors or Merchants by Commission to examine and try the same, and to mediate and end, and determine of their doing if they can, or else to certifie the Court, whereupon the Court may further proceed.

Or if the question be concerning the possession of any Lands demanded by the Plaintiff, which lye intermingled and dispersed with and amongst the Defendants Lands, and by reason of a long and joynt occupation cannot well be known or distinguished the one from the others, in such case when that it appeareth to the Court that the plaintiff hath and ought to have Land so intermingled, the Court doth award a Commission to Gentlemen in the Country where the Land lyeth, to enquire the certainty of it, and to set out the metes and bounds of the same, and to certifie the Court thereof, who will decree accordingly; and in such like cases references and Commissions are awarded.

If at the day of hearing the Plaintiff be ready, and the

the defendant maketh default, the Plaintiff must make *Affidavit*, or procure *affidavit* to be made of the serving the defendant with process *ad audiend. Judicium*, and then the court will proceed to hearing; And after the Plaintiffs bill is opened, the defendants answer is to be read, and the Plaintiffs proofs; whereupon the court will decree and dismiss the cause, or otherwise order that shall seem fit: but in such a case the court doth not use to make an absolute decree, but give a day for the defendant to shew cause to the contrary; at which day if the defendant do come and offer to shew cause to stay the decree, and thereupon the court doth proceed to a further hearing, the Plaintiff ought to have costs for his double attendance, caused by the defendants default.

Likewise at the day of hearing if the defendant do attend, and the Plaintiff maketh default, the court will dismiss the defendant with costs, except good cause be shown to stay that, and to put off the hearing till another day; and then if the hearing be put off, the defendant is to have costs for his first attendance.

When the defendant is once served with process *ad audiend. Judicium*, although the cause cannot be heard at that day appointed in the *Subpœna*, or probably in that Term, for multiplicity of business in the court; yet he must attend without any more process until the cause be heard, so long as the cause is continued in the bill of causes; but if the plaintiff be negligent, and will not endeavor to procure a hearing, but seek to continue the bill, to keep an Injunction on foot to stay the defendants course at common Law or in any other court, the defendant may move for a dismission of the cause, and that the Injunction may be dissolved, and that he may have costs for his unjust vexation.

After

After the Defendant hath answered the Plaintiffs Bill, if the Plaintiff delay the prosecution thereof, the Defendant may move to be dismissed with costs: whereupon a day will be given to the Plaintiff to shew cause; but usually in three Terms after answer, if the Plaintiff do not reply, they dismiss the Defendant.

After a cause is brought to a perfect issue, so that it is ready for hearing, if the Plaintiff then delay his prosecution, or be negligent to procure a hearing, the Defendant if he will may procure the cause to be set down for hearing, and may serve the Plaintiff with a *Subpœna ad audie d. Judicium.* And at the day appointed for hearing, the Plaintiff may appear and proceed to hearing, if he will; but if he will not, the Defendant is dismissed with costs: and if there be any Injunction or order to stay his proceedings at Law against the Defendant, it is dissolved.

If a Defendant dye after he hath answered, and before the cause be determined; the Plaintiff may exhibit a Bill of Revivour against the Heir, Executor or Administrator of the Defendant, as he finds cause: and in a Bill of Revivour the Defendant shall answer without Oath, because the intent of his answer is onely for him to submit himself unto the former proceedings; and upon his answer, the former proceedings are revived, and shall stand in the same force as they did against the former Defendant that dyed: and the Plaintiff and Defendant may proceed further to bring the cause to hearing, in the same manner as the Plaintiff and first Defendant should have proceeded if the first Defendant had lived.

In like manner when a Plaintiff dyeth a cause depending, may his Heirs, Executors or Administrators revive the cause by Bill of Revivour, as they finde cause.

After a decree is made and paſt againſt the Defendant, if he hath other matter which was not in iſſue in the cauſe decreed, which he ſuppoſeth will be ſufficient to overthrow the decree, he may exhibit a bill of review upon that new matter to reverſe the decree: but he muſt perform the decree, and yeild obedience to that, or elſe he runs into contempt: and if the Bill of review do not contain good and ſufficient matter, the Defendant may plead the former matter decreed in Bar of the proceedings upon the new Bill; and that is not ſufficient for the Plaintiff in the Bill of review, to produce new proofs, be they never ſo good, that were not produced before; but the matter muſt not be ſuch matter as was in the iſſue before.

A Defendant may alſo exhibit his Bill of review of error in the proceedings whereby the former decree was obtained.

Sometimes the principal queſtion between the parties is ſuch, as admitting the truth of both ſides, yet it is doubtful in Law to whom the right belongeth, ſo as the Court cannot make a decree until the matter in Law be determined. Whereupon a caſe in Law is to be drawn and agreed upon on both ſides: and if there be any matter of fact neceſſary to be proved for the making of the caſe, Witneſſes may be examined upon Interrogatories for that purpoſe; and when the caſe is agreed upon, ſeveral Copies muſt be delivered to the Lord Treaſurer, Chancellor, and Barons, and is to be argued on both ſides when and as often as the Court ſhall think fit, and ſo be determined by decree or otherwiſe.

When publication is ſurreptitiouſly or overhaſtily gotten by the Plaintiff, before the Defendant hath fully examined his witneſſes, the Court upon *Affidavit* by the Defendant that neither he nor any for him hath ſeen the depoſitions of the witneſſes, will admit him

him to examine ſuch witneſſes as he hath to examine.

Upon hearing of a cauſe, the Court doth allow all Bills and Anſwers, and other pleadings, and orders and decrees of the Chancery to be read for evidence, without any order for their allowance; but no depoſitions of witneſſes taken in any other Court, nor in another cauſe in the ſame Court, without ſpecial order.

And ſometimes it hath been (although ſeldom) after publication of both ſides, the Court doth allow them to examine witneſſes (*ad informandum Conſcientiam,*) but in this caſe the depoſitions that be taken are not to be publiſhed, but onely ſeen by the Court.

After a decree is entred, that may be inrolled and exemplified at the inſtance of either party, or of any other deſiring it.

If the poſſeſſion of any Land be decreed againſt the Defendant, the Plaintiff may have an Injunction directed unto him, and all that claim under him, commanding him and them to remove from the poſſeſſion, and to yeild the ſame to the plaintiff and his aſſigns: and if the Defendants diſobey that, upon *Affidavit* made thereof, the Court doth uſually grant an Injunction directed to the Sheriff, to remove the defendants, and put the Plaintiff in poſſeſſion.

If a decree be in any thing diſobeyed, either by the Plaintiff or the Defendant, or any other by their procurement, upon *Affidavit* made thereof, an attachment is awarded againſt them that made the contempt; and further proceſs of contempt, until the party diſobeying be brought into the Court to anſwer ſuch his contempt: and upon his appearance, if he deny the contempt alleadged againſt him in the *Affidavit*, he muſt be examined upon interrogatories

to be exhibited by the prosecutor of the contempt, before one of the Barons, which must be upon the points mentioned in the *Affidavit*; and he must be enjoyned by the Court to attend and appear from day to day until he be examined, and not to depart without license of the Court: or if the Court think fit, he is to be bound by Recognizance to that purpose.

After he is examined, if he have confessed sufficient matter of contempt, the prosecutor must move the Court to appoint a day to hear his examinations; at which day both sides are to attend, and such of the examinations are to be read as are material: whereupon if it appear to the Court that he is in contempt, the Court will commit him to the Fleet, and fine him, or not, as the case requires; and he is to remain in prison during the pleasure of the Court, and until he yeild obedience and submit himself to the Court to perform the decree, or enter into Recognizance to perform the same, if the Court so think fit, and to pay such costs to the prosecutor as the Court shall tax.

But if upon his examination the Defendant deny the contempt supposed against him, he may move the Court to be discharged with costs: whereupon the prosecutor may desire to examine witnesses to prove the contempt, either in Court or by Commission; and if the prosecutor take a Commission, the Defendant may joyn in Commition, to see a due examination of the witnesses, but not to examine any witnesses without special order of the Court; after which examinations, the Court doth appoint a day of hearing, at the motion of the prosecutor, or of the Defendant, to convict or discharge the Defendant, as the case upon hearing shall appear.

The same course is held for punishing or discharging of contempts supposed against the process of the Court, if the case require it.

After

After the Defendant hath answered, the Plaintiff may by order of the Court amend his Bill if cause require it, upon payment of costs.

In case of extraordinary contempts, the Court doth sometimes send a Messenger, or Serjeant at Arms to apprehend and bring in the offender, if he cannot be taken by the ordinary process of contempt.

Thus much will direct our *Sollicitor* in the Equity-practice in this Court: I shall here set down the Articles of the late Court of Augmentations, and then conclude with the practice of the Office of Pleas.

SECT. IIII.

The Articles of the late Court of Augmentations and Revenues of the Crown annexed to his Majesties Exchequer at Westminster.

1. ALL Honors, Lands, Tenements, Possessions, and all other Hereditaments, which are within the survey, rule and order of the Augmentations of the Crown, and the arrerages of the same, shall be received, levied, and gathered from henceforth by the Sheriffs of every Shire and County within the Realm of *England*, where the said Honors, Castles, Mannors, Lands, Tenements, and other Hereditaments do lye, or by any other person or persons that shall be appointed by the Lord Treasurer and the Court thereafter; which receipt the said Sheriff of every County, or other accomptant so appointed, shall content and pay the Revenue thereof, at the receipt of

the Exchequer, in manner and form as hereafter ſhall be declared.

2. *Item*, The Revenues in *Wales* ſhall be received yearly by the Chamberlain there, or by any other perſon or perſons that ſhall be appointed by the ſaid Lord Treaſurer and the Court, as is aforeſaid, the ſame to pay at the Receipt aforeſaid, and to be bound by Recognizances for the payment thereof according to the direction of the Court.

3 *Item*, The ſaid Sheriffs or other accomptants to have a Tally of record, yearly, according to the rule of their ſeveral charges, if it ſhall be thought fit by the Lord Treaſurer, Chancellor, Chamberlains and Barons, or by three of them, whereof the Lord Treaſurer to be one.

4. *Item*, That every Sheriff of *England*, or other accomptant, ſhall be charged with the Revenues aforeſaid, in his accompt from *Michaelmas* to *Michaelmas*, according to the ancient Laws and Cuſtoms of the ſaid Exchequer.

5. *Item*, All ſuch ſums of money as ſhall be due, at the Feaſts of the birth of our Lord, The Annunciation of our Lady, or at the Feaſts of *Eaſter*, for the ſaid Revenues, with the arrerages depending upon all former accompts, ſhall be charged in to the ſaid Sheriff, or other accomptants in their views, and ſhall make the ſaid view before the Feaſts of the *Aſcention* of our Lord yearly, and to pay all ſuch ſums of money as ſhall be found due upon the ſame before the Feaſt of *Pentecoſt* then next inſuing; and where they be payable at *Pentecoſt*, thoſe Rents to be paid before the Nativity of St. *John Baptiſt* the next following.

6. *Item*, If any former accomptant or debtor hath paid any ſums of money at the receipt aforeſaid, before the making of the view aforeſaid, that then

then the ſaid Sheriff or other accomptant ſhall be diſcharged by the payment thereof, being of Record, without any further ſuit or charge in the ſaid view of accompt.

7. *Item*, That all ſuch ſums as ſhall be due for the ſaid Revenue at the Feaſt of *Michaelmas* and St. *Martin*, with the arrerages due upon all former accompts, ſhall be paid at the receipt of the Exchequer by the Sheriffs or other receivers or accomptants, (that is to ſay) as much as ſhall be due at *Michaelmas*, before the Feaſt of the *Nativity* of our Lord God; and as much as ſhall be due at St. *Martin*, to be paid into the receipt before the twentieth day of *February* then next enſuing; or otherwiſe make declaration unto the ſaid Court of Exchequer of the payment thereof, by vertue of ſufficient VVarrant.

8. *Item*, That every Sheriff and other accomptant ſhall appear to his accompt in his own proper perſon, or by his ſufficient Deputy authorized in writing under his Hand and Seal in *Hillary* Term, and there to take an Oath, according to the ancient uſage of the ſaid Exchequer, and the ſame warrant in writing to be delivered into the Treaſurers Remembrancers Office, and there ſhall be filed and entred of record, without taking any Fee or reward for the ſame.

9. *Item*, The ſaid Sheriff, or other accomptant or accomptants, or his or their lawful Deputy or Attorney, after his or their appearances to make their accompts for the ſaid Revenues before the twenty fourth of *February* then next after, and the ſame auditor taking the ſaid accompts, ſhall deliver the accompts ingroſſed in parchment, authorized and allowed by the hands ſubſcribed of the Lord Treaſurer, Chancellor, Vice-treaſurer, and Barons of

the ſaid Exchequer, or by three of them at the leaſt, whereof the Lord Treaſurer or Vice-treaſurer to be one; and with the hand of the ſaid auditor likewiſe ſubſcribed, into the Office of the Pipe, within the ſaid Court of Exchequer, before the twentieth day of *March* then next following, as further proceſs thereupon may be made if cauſe ſhall require.

10. *Item*, That the Lord Treaſurer, Chancellor, Chamberlains, Under-treaſurer, and Barons, or three of them, whereof the Lord Treaſurer is to be one, and in his abſence the Under-treaſurer, ſhall have full power and authority, by their diſcretions, from time to time, to give allowances as well to the Farmours and accomptant for the yearly reparations, and other allowances, as alſo to every perſon and perſons that ſhall be hereafter appointed by them or by the more part of them, for the doing and executing of any proceſs, or other things concerning the premiſes.

11. *Item*, All Records of the ſaid Court of the Augmentations that do concern execution of any proceſs for Indentures, Recognizances, Obligations, and all Records of books of orders and decrees concerning the premiſes, ſhall remain in the charge of the Kings Remembrancer of the ſaid Exchequer, in ſuch place or places as by the Lord Treaſurer and the Court ſhall be from time to time appointed.

12. *Item*, That all Commiſſions for Woodſales, and Commiſſions for Survey of any part or parcel of the premiſes, ſhall be made hereafter by the Treaſurers Remembrancer of the Exchequer.

13. *Item*, All Records and Books of the ſaid Court of the Augmentations, of the Inrolment of Leaſes, and the counterpains of the ſaid Leaſes, and Warrants for making the ſame, and all accompts that ſhall remain in the ſaid Court concer-

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ning any thing or matter within their old order and Survey of the ſame, ſhall be and remain in the charge of the Clerk of the Pipe of the ſaid Exchequer, in ſuch place as the ſaid Lord Treaſurer and Court ſhall award, ſo that proceſs may be made upon them *unde ſuperius*, as long as the caſe ſhall require.

14. *Item*, That all ſealed Evidences, Rentals, Court-Rolls, and other writings and miniments whatſoever, touching the ſaid Revenues, be placed in the Treaſury-houſe that ſhall be appointed for that purpoſe by the Lord Treaſurer, and others the Head-Officers of that Court.

15. *Item*, Accounts to be taken every year, and the ingroſſments, in form as aforeſaid, to remain in the charge of the Clerk of the Pipe, in ſuch place as ſhall be appointed by the Lord Treaſurer and other the Head-Officers of that Court, amongſt the Evidences and Records of the Revenue of the land, ſevered from the ancient Records of the Exchequer.

16. *Item*, That all Stewards of *Leetes* and Courts ſhall yearly double their Court-Roll in Parchment, and certifie one part thereof, ſubſcribed with the hand of the Receivers before the *Audit* into the Court of Exchequer, wherein ſhould be contained the Fines made among the cuſtomary Tenements, the Heriots, the Amerciaments, the Woodſales, and other Caſualties, with a Declaration of needful Reparations, preſented by the Homage, making thereof a Streat to the Sheriffs of the ſhire, or to ſuch other Accomptant as ſhall be appointed to the Receipt thereof, as he may thereupon make his receipt and payment upon the end of his account; and that no Reparations be made at any time, but by warrant from the Court, under three of the Officers hands, whereof the Lord Treaſurer or Under-Treaſurer are to be one: And

the

the other part of the double of the ſaid Court-Rolls to remain in the Lordſhip where the ſaid Courts be kept.

17. *Item*, No Woodſales ſhall be made without a Commiſſion from the Lord Treaſurer, and two ſuch others of the Court as he ſhall call to have at that time; and in his abſence, the Under-Treaſurer, calling to him two of the ſaid Court.

18. *Item*, That no Steward, Bailiff, nor Woodward be admitted, but only by the Lord Treaſurer, Chancellor, and Chamberlains, Vice-Treaſurer, and Barons of the ſaid Exchequer, or three of them at the leaſt, whereof the Lord Treaſurer or Under-Treaſurer to be one of the ſame Officers, to paſs under the Seal of the Exchequer, by the Lord Treaſurers aſſignment under his hand: And the ſame Bill or Bills to be made in the Office of the Pipe, there to be entred of Record, filed and kept for the yearly allowance of the Fees, Wages, and Rewards of any perſon or perſons, as hereafter ſhall be appointed to any of the ſaid Offices.

19. *Item*, The Accounts of the Hamper, the Butlerage, the Staple of *Calis*, and the Revenues of the Courts there, the Prizes, the Mints, the great Guardrobe, the Cuſtoms of the Ports of *Cheſter*, *Barwick*, and *Callice*, to be yearly taken and ingroſſed by the Auditors of the ſaid Exchequer, according to the ancient Laws of the ſaid Court, and as heretofore they have been accuſtomed, before the Erection of the Court of Survey and Augmentation of the Revenue.

20. *Item*, Where in times paſt there hath been continually ſix Auditors ſerving in the ſaid Court of Exchequer, whereof at this day, and of long time, hath been remaining but five, having ten pounds for every year for his Fee: It is now ordered, That there

there shall be seven, to have yearly twenty pounds for his and their Fees; and that every of the said Auditors be personally resident upon his Office.

21. *Item*, That every Teller of the Receipt be likewise attendant upon his Office, to execute the same in his own person, and not by Deputy, upon the loss of his Office and Fee.

22. *Item*, For that the order, establishment, and uniting of this Court. be perfectly established, with Exercise, proof, and experience of the same; the Kings Highness is pleased that the Lord Treasurer, and the said Court of Exchequer, should have full power and Authority, from time to time, to amend, reform, and correct any Clause or Article aforesaid, and to add to, or diminish any thing that shall be found necessary for the amendment of the same; and to make such further orders from time to time, as to the Court shall be thought expedient.

23. *Item*, That all Rents and Services reserved, be answered in the said Court of Exchequer, and paid in the said Receipt; and likewise all Debts, Arrerages of Accounts, and other Duties, and sums of Money, which have been answered in the said Exchequer, be paid in the said Receipt.

24. *Item*, To call into the Court of Exchequer all persons accountable, in such manner and form as they ought to have been called in the said Court of Augmentation.

25. *Item*, That all Records of late belonging in the said Court dissolved, and belonging to the same Court, shall be Recorded of the same Court of Exchequer, and of the same force and strength, as they were in the said late Court dissolved.

26. *Item*, A League to be made of all Specialties brought into the said Court.

27. *Item*, That all Letters Patents, Grants, Leases, and

and other assurances made by the said late Courts dissolved, shall be of the same force and strength as they were in the said late Courts dissolved.

SECT. IV.

*The Articles of the uniting of the late Court of first-*Fruits *and* Tenths *to the Court of Exchequer at* Westminster.

1. HEr Highness doth ordain, that all the Records of the said Court of the first Fruits and Tenths shall be hereafter placed in the said Exchequer, and shall be of the same force and strength as they were in the said Courts of the said first Fruits and Tenths.

2. *Item*, Her Highness is pleased, and ordaineth that there shall be in the said Exchequer a certain Office, called the Office of the Remembrancer of the first Fruits and Tenths; which Office for divers and sundry great considerations, for and at the first erection only, shall be exercised by two persons by her Highness to be nominated, which shall joyntly exercise the same Office during their lives; and after the death of one of them, the said Office to be exercised by the survivor of them.

3. *Item*, That all Records belonging to the same Court of the first Fruits and Tenths shall be in the charge and keeping of the said Officer.

4. *Item*, The said Officers shall make and deliver the true values of all Spiritual promotions, Dignities and Benefits within the Realmes of *England* and *Wales*, and other the Queens Dominions, to such persons as shall sue for them, taking for the same like

like Fees as were wont to be paid before the diſſolution of the firſt Fruits and Tenths.

5. *Item*, The ſame Officer ſhall take Compoſitions of the firſt Fruits, of every Arch-biſhoprick, Archdeaconary, Deanry, Prebendary, Parſonage, Vicaridge, and of every other dignity, Office, benefice, promotion ſpiritual aforeſaid.

6. *Item*, The ſame Officer to make all writings obligatory, Indentures, and all other writings concerning the ſame firſt Fruits and Tenths, and ſhall ſee the ſame ſealed and delivered by the parties to the Queens Highneſs uſe; and alſo ſhall make acquittances and other diſcharges to ſuch as ſhall pay their money in hand, without making bonds for the ſame, taking Fees accuſtomed of the parties for the ſame.

7. *Item*, The ſaid Lord Treaſurer to call ſuch perſons as ſhall pleaſe him to his aſſiſtance, at the declaration of the aforeſaid accounts, or any Officer or Auditor of the ſame Court that to them ſhall be thought meet for the paſſing of the ſame accounts.

8. *Item*, The accomptant or accomptants that ſhall not come to determine his or their accounts in form aforeſaid, his or their goods and lands ſhall be ſeized to the Queens uſe *nomine diſtrictionis*, and ſhall looſe the benefit thereof, and ſhall have the allowance of the ſame in diſcharge of his debt, according to the ancient cuſtom of the Exchequer.

9. *Item*, All *Scire facias*, Attachments, and Writs of diſtreſſes for debts or accounts concerning the premiſes, ſhall be made by the Treaſurers Remembrancer from time to time, as to the diſcretion of the Court in that behalf ſhall be thought meet and convenient, according to the ancient cuſtom and courſe of the Court.

10. *Item*, All Letters Patents of any Mannors, Lands, Tenements, or other Hereditaments, or concerning any Annuities, Pardons, or other ſuch like, ſhall

shall be inrolled in such Office of the said Exchequer, as by the discretion of the Lord Treasurer, and the said Court shall be appointed; The parties to pay Fines according to the Ordinance and Statute in that behalf provided.

11. *Item*, All Recognizances of payments of any Farm, or any Debt of or for any part of the premises, to be inrolled in the Remembrancers Office, and to be taken in the open Court, when the Term is open; and if the Term be not open, then by the chief Baron; and in his absence, by any of the Barons, and by force of a *Dedimus potestatem*, if necessity shall require; taking for every such Recognizance taken out of the Court six shillings eight pence only, whatsoever number of persons be bound in the same: and for the entry of the same Recognizance, the said Remembrancer shall have and take for his Fee, of and for every Recognizance of four pounds and upwards, three shillings four pence; and no other or more Fees to be taken for a Recognizance, whatsoever number of persons be bound in the same.

12. *Item*, That the said Sheriffs or other Accomptants shall yearly pay all such sums of Money as shall be due to any person or persons, for any Annuities, Fees, Pensions, issuing or going out of any of the premises according to their Grants allowed and inrolled, unless they have a special commandment from the Court to the contrary.

13. *Item*, That the Farmers and Lessees shall be bound to the Queen, and by Recognizance, to perform their covenants in their Leases, in such form as by the court shall be ordered.

14. *Item*, All Warrants for Leases to pass by the Lord Treasurer: and if the yearly Rent of the land to be letten, shall be above the sum of forty shillings by the year, then the same Lease to pass under the great

great Seal of *England*; And if the Rents be above the value of 7 *l.* 13 *s.* 4 *d.* then every ſuch Leſſee to pay the Fees of the Signet and privy Seal, as heretofore in like caſes have been accuſtomed: And if the Land to be letten do paſs not the yearly Rent of 4 *s.* then the Leaſe to paſs the Seal of the ſame Court of Exchequer, paying 6 *s.* 8 *d.* to the Queens uſe, 3 *s.* 4 *d.* to the Chancellor of the ſaid Court, and 4 *d.* to one appointed to attend the Seal, for his attendance and wax; and the ſaid Leaſes under the value of 40 *s.* to be alwayes made by the Clerk of the *Pipe*, and filed together for every year by themſelves, and there to be inrolled within the ſaid Office, as the ſaid Clerk of the *Pipe* may report the Indentures for the more ſurety of the parties, taking for the Inrollment as ſhall be ordered by the Court.

15. *Item*, The ſaid Lord Treaſurer ſhall not have any authority to make any Leaſe in reverſion, of any part or parcel of the premiſes, or of any woods, or any Mannors in groſs for the term of certain years, without the Queens Highneſs ſpecial warrant to him to be directed in that behalf; and then warrant to be made by the Lord-Treaſurer of *England*, in form aforeſaid.

16. *Item*, The Lord Treaſurer taking to him the advice of the Chancellor, Under-Treaſurer, and chief Baron, or two of them, ſhall have authority to aſſeſs Fines for any Leaſes of any part or parcel of the premiſes, to be made by the ſaid Lord Treaſurer in form aforeſaid.

17. *Item*, The ſame Officer to write and make all manner of Proceſs, Commiſſions, Entries, Books, Judgments and decrees of the Court, with all other writings and miniments whatſoever, aſwell for the arrerages of ſuch firſt Fruits, as for all Tenths and Subſidies of the Clergy due to her Highneſs heirs and Succeſſors

Succeſſors by ſuch ſpecial perſons, their ſureties, Farmers, and occupiers, taking therefore ſuch Fees of the parties, as were uſed before the diſſolution of the ſame Court of firſt Fruits and Tenths.

18. *Item*, All Certificates returned upon any Commiſſion iſſuing out of the ſaid Court of Exchequer, concerning any firſt Fruits, Tenths, or Subſidies aforeſaid, the valuation of any Benefice, or promotion Spiritual, omitted in the firſt Taxation, or otherwiſe, for any matter accuſtomed to be determined in the ſaid Court of the Exchequer, in the charge of the ſaid Office, and there to be ordered.

19. *Item*, All ſuch Certificates as the Arch-biſhops and other Collectors of the Tenths and Subſidies of the Clergy made againſt the Incumbents refuſing to pay their Tenths and Subſidies, being exhibited before the Court of Exchequer, and by them allowed, ſhall remain in the charge of the ſaid Office of the Remembrancer of the firſt Fruits and Tenths, in the place to be appointed for the ſame, to the end that proceſs may be made againſt ſuch Incumbents as be in them contained.

20. *Item*, That the ſame Officer ſhall yearly make a Leager of all compoſitions of firſt Fruits taken and to be taken, wherein ſhall be contained the name and Shire of the Benefice ſo compounded for, the ſum, and name of the Incumbent.

SECT.

SECT. VI.

The Office of Pleas belonging to his Majesties Court of Exchequer at Westminster.

THis is the Office of common Law belonging to his Majesties Court of Exchequer, and herein the course and method of proceeding is in most things agreeable to the common Law proceedings in the common Pleas and Kings Bench.

Their leading process is either a *Quo minus*, or *Subpœna*: the *Quo minus* is a writ to take the body of the Defendant, as the *Capias* in the common Pleas, and *Latitat* in the Kings Bench. Now this writ was anciently granted to such persons onely who were either Tenants, Debtors, or some ways accomptant to the King; and so the writ concludes that the Plaintiff for the default of the Defendant not giving him satisfaction, is the less able to satisfie the King his debts which he oweth him at his Exchequer.

But now at this day the Practice of this Office is grown general in all cases almost by the *Subpœna*, which being easie for the Plaintiff, without being subject to the trouble and charge of Bayliffs, brings very much business into this Office, and chiefly in *Wales*, *ubi breve domini Regis non currit*, where no writ out of the Kings Bench or common Pleas runneth, but onely the *Capias utlagatum*.

Here are belonging to this Office onely four Attornies, who manage all the business between Plaintiffs and Defendants coming unto them. In the Forms of the Declarations they must imitate those of the Kings Bench; onely with this difference, that

where the Kings Bench-men begin their declaration ſuppoſing the Defendant to be in cuſtody, theſe ſuggeſt the Plaintiff to be the Debtor unto the King, beginning their Declaration thus:

ſi. *A.B. Debitor domini Regis queritur verſus C.D. &c.* And they conclude their declaration, after they have laid their damages, with a *Quo minus*, whereby the Plaintiff is the leſs able to ſatisfie the King his debt which he oweth him at his Exchequer, *&c.*

In this Office all the Officers of the Court of Exchequer, their Clerks and Servants, all the Kings Tenants and Farmers of any of his Lands and Tenements, and all manner of accomptants of the Exchequer, are priviledged to ſue and implead one another, or any ſtranger, in any action of the caſe, debt, detinue, trover, treſpaſs, covenant, conſpiracy, ejectment, or the like, as are proſecuted in the Kings Bench or common Pleas.

And in this Office are proſecuted all ſuch ſuits as are removed out of any Court at *Weſtminſter* by the red book, or out of any Court of record elſewhere in *England* by any writ of priviledge; for ſuch perſons are priviledged to ſue and be ſued there and nowhere elſe, if they take the benefit thereof in time.

For the generality of their proceedings here, they follow much the rules of the Kings Bench and Common Pleas; and after judgement obtained here either by *nihil dicit*, or after a Verdict by *niſi prius*, the execution is *Capias ad ſatisfaciend.* or *Fieri facias*, as at other Courts of the Common Law.

In this Court in ſome caſes the Defendant at his appearance muſt put in ſureties to anſwer the matter, which ſureties muſt enter into recognizance that the defendent ſhall render, *&c.* if he be condemned in the ſuit for which they ſtand bound.

This Bail or Recognizance muſt be always taken before

before a Baron in the Court; and not in his Chamber, as is usual in other Courts.

SECT. VII.

A distinction of the Exchequer-Officers of the superiour and inferiour Court of Exchequer; and first of the superiour Court.

THe superiour or upper Court of the Exchequer is called *Scaccarium Computorum*, and hath peculiarly proper thereunto these Officers.

First, the Lord Treasurer and Chancellor, whose places are in the gift and disposal of his Majesty, and are as ancient as the Exchequer.

The Under treasurer or Vice-treasurer; who began in the time of King *Henry* the Seventh, at which time the Lord Treasurers Remembrancer was made Vice-Treasurer; and whether of the Kings nomination or the Treasurers, is not known: but in the time of *Hen.* 8. Sir *John Baker* was made Vice-treasurer, and had a Patent from the King under the great Seal for the said Office, and since it hath continued in the Kings disposal.

The Lord chief Baron, and the three other learned Barons, and the Puisne or Cursitor-Baron, are all likewise in the gift of the King.

The two Chamberlains had in old time great authority in the Exchequer, and have kept the keyes of the Treasury coffers, and were privy to the *pells* of *introitus* and *exitus*, of the which each of them are to keep a controlment at this day; and anciently no mony was issued out of the receipt without their

privity, their names being ſtill continued in all privy Seals, for payment of money out of the receipt, though it is now delivered without them: their place in Court is next to the Barons, and they may ſit and keep their places daily in Court, if they pleaſe to attend and hearken to the cauſes there without any intermedling in them; but at the election of Sheriffs in *craſtino Animarum* they uſe to be preſent, and may ſay their opinion for the preferment or ſtay of men to be Sheriffs, as the Barons and Juſtices do: anciently their places were of inheritance, but are now in the Kings gift.

The Kings Majeſties Attorney and Sollicitor general have always been accounted amongſt the Officers of the Exchequer, though they have audience and come within the Bar in all other Courts: their places are in the Kings gift.

The Kings Remembrancers Office (whereof we have ſpoken largely already) hath been always in the gift of the King ever ſince the erection thereof.

The Treaſurers Remembrancer, likewiſe treated of already, now is, and for a long time hath been in the Kings gift.

The Office of the Clerk of the Pipe, or the ing'offer of the great Roll, was at the Lord Treaſurers diſpoſal till about the time of King *Edward* the Third, ſince which time it hath continued in the gift of the King.

The Office of the Controller of the Pipe now is, and always hath been in the gift of the Chancellor of the Exchequer, the ſaid Controller being anciently ſtiled *Clericus Cancellar.* and the Clerk of the Pipe *Clericus Theſs.* and *Cancellar.* was and is ſtill written on the Controllers Roll, and *Theſs* anciently upon the great Roll, to diſtinguiſh between them.

The Office of the Remembrancer of the firſt Fruits

Fruits and Tenths is in the Kings gift.

The Serveyor general of his Majesties lands, *&c.* in his Majesties disposal.

The Clerk of the Pleas is in the gift of the Chancellor.

The forreign Appofer, and Clerk of the Estreates, in the Lord Treasurers gift.

The two Auditors of the impresis in the Kings gift.

The seven Auditors of the Revenue, who have in charge before them the Revenue annexed to the Exchequer, upon the dissolution of the Augmentation-Court in the first year of Queen *Mary*; and before them the Receivers general make their accompts, according to their several assignments, by their Letters Patents under the great Seal from the King.

The other businesses which belong to their places as they are Auditors, or Clerks in the Exchequer, for taking the accompts of Sheriffs, Escheators, Customers, controllers, collectors of subsidies, the officers accompt, and the like, they have them by assignment from the *Marshal* of the Exchequer, from time to time in open Court, and so entred in his book that no accomptant may chuse his auditor: all their places are in the Kings gift.

The *Auditor* and Receiver general of the Dutchy of *Cornwal*, are all in the Kings gift in the vacancy of a Duke of *Cornwal*.

The Receivers general of the Kings Revenues, being about two and twenty, are also in the Kings gift.

The Surveyor of the Green Wax was also in the Kings gift: this Office was erected in the time of King *James*, upon the advice of the Lord Treasurer, Chancellor, Under Treasurer, and Barons of the Exchequer, and the learned Councel, as appears by a table set up in the Exchequer setting forth the duty of his Office.

The two Deputy-Chamberlains, being joyners of the Tallies, are in the two Chamberlains gift.

The Marshal of the Court is now in the gift of the King.

The two Parcel makers were ordained in the time of *Richard* the second, to make the parcels of all Escheators accompts; but now their Offices are out of use.

The Clerk of the *Nichils* is in the Chancellors gift.

The Sealer of the Court likewise in the disposal of the Chancellor.

The chief Usher of the Exchequer is he that by inheritance hath the keeping of the Exchequer-Court, the Exchequer-Chamber, and the house, with all the appurtenances, where the Court useth to dine when they sit about the Kings business; he maketh provision for all the necessaries both of the Exchequer, and of the Receipt, and hath allowance thereof at every *Liberate*; and seeth to all places of the Court, that all doors, chests, records, and things be in safety from fire, water, or other spoil or damage; and hath the oversight of the rest of the Ushers, and the six ordinary Messengers of the Court, that they make a true delivery to the Sheriffs and all others of the Kings process.

The two Praisors of the Court concerning uncustomed goods, in the gift of the Under-Treasurer.

The four ordinary Ushers of the Court, in the said chief Ushers gift.

The six ordinary Messengers of the Court, who carry the Kings process to the Sheriffs, are also in the said chief Ushers gift.

Thus much of the Offices in the superiour or upper Exchequer.

SECT.

SECT. VIII.

The Offices in the inferiour or Lower Court of Exchequer, commonly called the Receipt.

THe four Tellers of the Receipt, (whose Offices are in the Kings gift) do receive all the Kings Monies which are paid into the Receipt by Sheriffs, Customers, Farmers, and other debtors and accomptants whatsoever, and do write a Bill thereof in parchment, expressing therein the sum by them received, and of whom & for what; which bill they put down through a Trunk made for that purpose into the Chamberlains Court, for a Tally to be stricken for the discharge of the party that payeth the Money.

The Clerk of the *Pell* keepeth the Pell in parchment, called *Pellis Receptæ*, wherein every Tellers Bill with his name on it is to be entred; and under every such Bill when it is entred, *Recordatur* to be written in open Court, for a controulment to charge the Teller with to much money as in the said Bill is set down.

He also anciently kept another Pell called *Pellis Exitus*, wherein every dayes issuing of any the Monies paid into the Receipt, was to be entred, and by whom, and by what warrant, privy Seal or Bill it was paid: this Office is in the Lord Treasurers gift.

The Auditor of the Receipt taketh up every Tellers parchment Bill, after it is marked *Recordatur* by the Clerk of the *Pell*, and entred by the Controllers of the *Pell*, and fileth it upon a File; and then his Clerk that is called *Scriptor Talliar. & Contratall.* writeth double upon every Tally, the whole Letter of the Tellers Bill, that when the Tally is cloven, both

the Foile and the Stick thereof may have like Letter upon them.

The said Auditor doth also enter all the said parchment Bills in a Book, which is to him as *Pellis Recepte*; and by those he doth see what every Teller receiveth weekly, and of whom, and maketh certificate thereof to the Lord Treasurer, as he is commanded, how all the Money of the Receipt particularly is paid or received; And to that end maketh to every of the Tellers a *Debenter*, before any of them can pay any Money out of the Receipt, be it upon Fees, privy Seals, or any warrants whatsoever.

He likewise keepeth the Lord Treasurers Key of the treasury, where the ancient leaguers of the Realm, the perambulation of the Forrests, the records of *Justiciar. Itiner.* and divers other ancient records of the Kings Bench and Common Pleas do lye, both in the old Court of Wards, and in the old Parliament House, in the Cloister at *Westminster*, where no Search can be made, without the said Keys come, with both the Chamberlains Keys thereof; where also the black Book of the receipt *de necessariis, Scaccar. observanciis*, agreeing in that point with the red Book in the Kings Remembrancers Office, is kept. This Office is also in the gift of the Lord Treasurer.

The two under Chamberlains be both the Chamberlains Deputies for the Receipt, and their places in the said Chamberlains gift: the Tallies so written upon as before, are delivered to them, and the one of them holding the Talley, and the other the Cleaver and the Maller, cleaveth the Talley in the midst; and then one of them taking the Stock, and the other the Foile, and the Clerk of the *Pell* and his controllers their Books, wherein the said Tellers Bills are recorded, the Cleaver saith *Exam.* and readeth the

Stock

Stock aloud; and his fellow the Clerk of the *Pell*, and his two Controllers, seeing the Stock to agree with them all, the said Stock is delivered to the party that paid the money for his discharge, and the Foil cast into the Chamberlains chest, where they keep all their Foils, together with their knives, and the Book called *Doomsday book*, until the Joyners fetch away the said Foils, which they keep in their Office, in the upper Exchequer, to be rejoyned and examined with the Stock delivered to the party for his discharge, which is not to be allowed of upon Record in the Pipe by the first Secondary there, until the same be so rejoyned and delivered in Court to the said Secondary by the said Joyners, with their mark testifying that by their examination the same agreeth with the Foil in their custody.

And in the said chest are also kept the Keys of the Treasury under three Locks, whereof the Auditor of the Receipt hath one Key, belonging to the Lord Treasurer; the two Under chamberlains another Key, and the *Usher* of the Receipt (whose Office is in the Kings gift) another, who attendeth by himself or his Deputy, and is to do all things there which other Ushers ought to do, and keep the Receipt, as the Usher by inheritance doth the upper Exchequer.

The said Under Chamberlains make all Searches in the Treasury for any Records at the suit of the parties, and copies, and exemplifications of the same, whereof the Fees are divided between them and the Keeper of the Lord Treasurers Key.

The Carter of the Tallies is another Officer in the Receipt, of the Lord Treasurers gift, who provideth fitting Hazel, and carteth them foursquare, and into fit lengths, that they may the better be written upon and cloven, and casteth them into the Court, when any of them be called for, and receiveth his divi-

dividend-Fee (with the Clerk of the Pell, the *Scriptor Talliar.* and Under-chamberlains) of the party that sueth it out.

The four ordinary Messengers of the Receipt are pursuivants attending upon the Lord Treasurer, for carrying his Letters and Precepts to all the Customers, Controllers and Searchers through the Land, who are to ride and go upon any other his Majesties Messages, where the Lord Treasurer doth command them: their places are in the gift of the King. And thus we have gone through all the Offices of the upper and lower Exchequer: now a word or two of their Fees, and then we leave them to receive them.

SECT. IX.

Fees of the Exchequer.

A *Subpœna* to answer *per* Bill *Anglicar.*	2 *s.* 6 *d*
A *Subpœna* retornable in *Offic. placitor.*	3 *s.* 7 *d*
Filing an English Bill,	7 *s.* 4 *d*
Copies of Bills, *&c.* Answers, Replications, Rejoynders, every sheet	8 *d*
An attachment *Alias*, *Pluries*,	2 *s.* 6 *d*
A Proclamation *cum Feod.*	6 *s.* 2 *d*
A Commission of Rebellion,	1 *l.* 4 *s.* 6 *d*

Their other Fees upon the proceedings by English Bill differ not much from theirs in the Chancery.

The charge of an appearance in the Exchequer.

To an English Bill,	3 *s.* 4 *d*
In the Office of Pleas,	4 *s.* 6 *d*

The

The charge of an Involment in the Exchequer.

Inprimis, to the Baron before whom the acknowledgement is made,	6 *s.* 8 *d*
To the Master of the Office for his hand,	6 *s.* 4 *d*
For every Roll,	3 *s.* 4 *d*
To the Attorney,	3 *s.* 4 *d*
Total.	19 *s.* 8 *d*

SECT. X.

The charge of passing a Sheriffs account in the Exchequer.

First, for the Tales upon payment of proffers,	2 *s.* 8 *d*
Entry of the same Tales,	1 *s.* 4 *d*
For a *Diem Clausit Extremum*, if the Sheriff be dead, whereby execution is to be returned *sur* account,	13 *s.* 4 *d*
For the Warrant of Attorney,	1 *s.*
The entry thereof,	8 *d*
Ushers Fees and poor mans box,	13 *s.* 4 *d*
The Controller of the *Pipe*,	15 *s.* 8 *d*
To him more in regard,	3 *s.* 4 *d*
To the Clerk of the *Pipe* in part of his Fee,	1 *l*
To the Lord Treasurers Remembrancer	13 *s.* 4 *d*
To the forreign Apposer for Charging of the green-wax, and making of the scrowl thereof,	1 *l.* 6 *s.* 8 *d*
To him for allowance of the wages for the Justices of the peace,	18 *s*
To the Clerk of the Estreats for portage of books, as you can agree.	

To

To the Under clerk of the *Pipe* for the like, *Similiter*
The president for the forreign account, *Similiter*
Fee in regard of the Justices of Assize their dyet, 10 *l*
To the Attorney for the entry thereof, and the other petitions, 2 *l*
To the said Attorney for his ordinary Fee for the whole year *ad recipiend. mandat.* &c. 1 *l.* 6 *s.* 8 *d*
To him in regard for every Term during the account, 3 *s.* 4 *d*
To his Clerk in regard, 10 *s*
The Copy of the Sheriffs seisures, according to their number.
Le. seisure old, 1 *s*
Le. seisure new, 2 *s*
To the Clerk in regard of the same 3 *s.* 4 *d*
To the Remembrancers Office for each thereof, and for joyning the Tales of proffers, 3 *s.* 4 *d*
On the Lord Treasurers Remembrancers Office for the like, *Similiter*
For allowance of the same tales of payments of mony in the receipt of the Exchequer, 1 *s.* 4 *d*
For joyning the same, 8 *d*
For allowance of the same, 1 *s*
For every day that is given to the Sheriff in respect of his accompts, 6 *s* 8 *d*
For entry thereof, 2 *s*
To the Usher for Proclamation when the Sheriff is cast out of the Court, 2 *s.* 6 *d*
For the *Quietus est*, the making and allowing of the same, 1 *l*
For the Barons Fee for the taking and allowing of the forreign accompts, 6 *s.* 8 *d*
To the same Baron for examining the Sheriffs schedule, 6 *s.* 8 *d*

SECT.

SECT. XI.

The ordinary charge for passing an accompt.

First, for delivery and receipt of three Certificates,	1 *s*
For delivery of the Kings part of the Books of extent to the Auditor,	4 *d*
To the Auditors man for a bag,	6 *d*
For a warrant of Attorney,	8 *d*
To the Teller for receiving of the money, and for making a Bill thereof,	4 *d*
To the Auditors man for allowing of the Certificates,	1 *s*. 6 *d*
To the Auditors man for ingrossing of the accompts,	4 *s*
To the Barons man for receiving and allowing of the warrants of Attorney,	2 *s*
For entring of the accompt on the Kings Remembrancers side,	1 *s*
For the like entry with M.	1 *s*
For the joyning of their two Tales,	8 *d*
For entring of the *Quietus est*,	2 *s*
For the *Quietus est*	3 *s*. 4 *d*
The Attornies Fee	3 *s*. 4 *d*

It's no great digression, now we are speaking of Sheriffs, to set down part of their Fees too, as as much as can be known certainly; for some of their Fees are uncertain, and in many Counties they differ.

SECT.

SECT. XII.

Fees belonging to Sheriffs.

For the return of every *Cepi Corpus*, 4 *d*
For the return of a *Nihil* or *Non eſt inventus*, 4 *d*
For a *Nihil* upon a *Scire facias* ſome Sheriffs take 1 *s*
For making a Warrant upon a mean proceſs, if it be directed to the ordinary Bayliff, every name, 4 *d*
If to ſpecial Bayliffs, for every name, 2 *s*

In *London* and *Middleſex*, and the next Counties, they take but 4 *d.* for a warrant, though four names, and 4 *d.* a name in the Common Pleas; but in many other Counties they will have 2 *s.* a warrant, ſpecial or not ſpecial; and in ſome Counties 15 *d.* in ſome 8 *d* and in ſome far more.

For the arreſt of every Defendant, 1 *s*
Payable by the Plaintiff
For making the bond of appearance, 4 *d*
They uſually take 1 *s*
The Sheriffs due Fee upon the arreſt of the Defendant is 1 *s.* 8 *d*
And to the Bayliff that made the arreſt, 4 *d*
And for the Bail-bond, 4 *d*
Or if the Defendant go to priſon, then the Gaolers Fees is 4 *d*
For the return of every name outlawed, 4 *d*
For the return of a Proclamation, 1 *s*
Return of a *Venire facias*, 2 *s*
For the return of a *Habeas corp.* or *diſtringas*, 2 *s* 4 *d*

They

They take twelve shillings.

For a Replevin, 2 *s.*
For a Copy of a writ, 4 *d.*
For the return of a *Recordare.* 4 *d.*
For the return of an *Accedas ad Cur.* 2 *s.*
For the return of a *distringas nuper vic.* 2 *s.*
For the allowance of a *Superfedeas* after the return of an *Exigent,* 1 *s.*
They pay more now in many Counties.

For executing a writ of Enquiry in waste.
To Enquire of damages.
To execute a Statute.
An *habere facias seisinam.*
A *Liberate* upon a Recognizance.
A writ of Right.
De partitione faciend.
For executing an *Habere facias possessionem in Ejectione firme*
For a writ of dower.
For executing an *Elegit* and inquiry upon it.
For removing the overcharge of common pasture, executing a writ of forceable entry.
For an enquiry of damages in assault, *&c.*
For a Rescous.
For all these, and many other such special matters, the Sheriff hath as you can agree with him.
For serving an Execution he is allowed poundage by the Statute of *Eliz.*
There are many other Fees incident to the Sheriffs Office to receive and pay; to find them out truly, *hic labor hoc opus est.* But as you have occasion to make use of them, they will offer themselves unto you.

THE

THE SOLLICITOR IN THE Star-chamber.

CHAP. XV.

SECT. I.

The Antiquity and Authority of the Star-chamber.

START not that I go about to bring our Sollicitor into a Court that is not in being; It was indeed about the first breaking out, or at least smoking of the late Rebellion, put down, and hath ever since ceased; but the growth of extraordinary criminals being so spread, Schismaticks, hot-brain'd Phanaticks, Atheists so increasing, whispering treasons, and

and traiterous designes in every corner, yet so covertly, that no ordinary course of law can take hold of them; horrible perjuries, frauds and cozenages, daily perpetrated, do cry aloud for re-establishment of this Court to its pristine Power and Authority, which would much quiet those wicked Spirits, and purge away that Tincture of Rebellion wherewith they are so deeply tinged, and who make use of Indulgences as incouragements to crimes.

But here I must expect to meet with those that will say, *That these things be not hid from the wisdom of the standing Law, which hath open Remedies by way of ordinary Jurisdiction, in whatsoever evils of these kinds it shall meet with.*

To these I answer, That sundry things fall out that do require an extraordinary help, and cannot be cured by the usual and common Rule and setled Justice: For although in this Realm of *England*, the most part of causes in complaint, are, and ought to be referred to the ordinary proceedings of the common Law, and regular distribution of Justice; yet there have always risen, and continually will from time to time, grow some extraordinary matters, fit to be reserved to a Higher hand, and to be left to the Aide of absolute Power and Authority, as I shall evidence by particularity.

1. If one who hath *Jura Regalia*, will deny original Writs, or other means of Justice.

2. If one that hath a Judicial place, shall by corruption mislead the whole course of an Evidence given to a Jury that is charged before him; or shall pleasingly hear the proofs of the one party, and peremptorily cut off the other, whereby the truth is not brought to light.

3. If a good and serviceable Judge, Justice, or other Officer, shall be abused and baited with Libells

and Slanders which be not actionable.

4. If a Justice of peace shall be contemptuously despised, and offered Indignities, for which no private action will be maintained.

5. If one shall attempt to coyn Money, and shall be apprehended in the doing of it, before it be performed.

6. If a Chancellor at Law shall give advice standing with the learning at Law, and yet tending only to vexation, delay of Justice, or deceit of private persons, or to the defrauding of the Kings Majesty in his lawful prerogative; or to the breaking of a good and wholesome Statute law.

7. If a man of behaviour and countenance shall secretly practice with others, for the bearing or murthering of any other person, and bringeth it not to effect.

8. If Cities, Townships, Colledges, or other Corporations, shall wilfully wrangle, and factiously rent themselves in sunder, whereby their whole body politique shall be hindred, or otherwise become unprofitable; or shall causelesly discountenance or displace any honest person of their company.

9. If one private member of such a body, shall by vexation in law so unquiet the Head, and all the rest of the company, that they cannot apply their common calling.

10. If wilful perjury be committed by any man in case where no Indictment lyeth, nor action upon the Statute of perjury may be maintained.

11. If a man should accuse another for speaking words against the King, and cannot maintain the Accusation.

12. If a man shall wilfully offend a Proclamation made by his Majesty, upon urgent cause, for a time only, and until that Law may by Parliament be provided.

13. If

13 If a Jury or Homage in a Court-Baron will paſs againſt plain Evicence, in a plaint of *Aiel, Formedon*, or the like.

14. If a grand Jury will againſt their Evidence find *Ignoramus*; or a jury for life and death, will find an heinous murtherer to be not guilty.

15 If an Oficer that ought to be ſworn, will exerciſe his Office without an Oath taken by him. *This practice is uſual amongſt Phanatique Church wardens*, &c.

16. If any one ſhall counterfeit the Officers hands upon a writ of Covenant or entry, to deceive his Majeſty of his Fine; or the hand of the Attorney-general for the better paſſing of a pardon; or ſhall ſet a Councellors hand to a Bill in Chancery without his privity or knowledge.

17. If one that is ſued upon a Title of Leaſe for years, be outlawed, and hath his pardon, and yet will cauſe his Chattels to be ſeized for the King, and then procure them to be committed to a friend of his.

18. If a man will ſuborn ſome to appear for others as Defendants in a criminal cauſe.

19. If a cozening crew ſhall entice a young man to the company of a woman, and cauſe him to be deprehended by one that pretendeth to be her husband; (*ſuch as of late years have gotten the till of Trepans*) and then for his redemption, he ſealeth them bonds, or leaſes of his lands, confeſſeth judgments, & maketh gifts of his goods. Theſe and infinite more of the like miſdemeanors, were uſually puniſhed in this Court.

SECT. II.

The antient practice of the Star-chamber.

UPon complaint exhibited in this Court, the Plaintiff either came freely, or was sent for by *Corpus cum causa* if he were in prison. The Defendant was summoned or called either by writing or Messenger; by writing, as by the Kings own Letter, or by his privy Seal directed under a pain to the party, or else to the Sheriff to take sureties for his appearance; or by Letters missive from the Council. And if he made default, then upon *Affidavit* made, by Attachment, and Proclamation of Rebellion, if the case require it.

By monition of a Messenger, as by a Serjeant at Arms; who upon contempt of former process, or upon doubt of the flying of the party, or for his being neer at hand, or in respect of the heinousness of the fact, was many times sent to bring the Defendant into the Court.

The manner of pleading in this Court was by Bill, Answer, Replication, Rejoynder, &c.

The hearing was as well by examination upon Oath of the Defendants themselves, as of their witnesses, against whom the manner was to award compulsaries for their appearance, if the party would depose their Testimony to be necessary for him, and if their ability of body would bear the travel; if not, they were in respect of their impotencie examined at home.

The determination was by decree, which passed by the assent of the more part delivering their opinions singularly

singularly; whereby either the cause was decided in the Court, or dismissed to tryal at the Common Law; or otherwise upon default of the Plaintiff (being proclaimed or called thrice at the Council door) the Defendant was quite dismissed with his costs and expences.

The Officers were, the Clerk, the Attornies, the Usher, and the Serjeant at Arms.

The Clerk of the *Star-chamber*, was to take, endorse, enter, keep, and certifie the Bills, Pleadings, Records, Rules, and Decrees of the Court.

The Plaintiff was commonly bound either alone or with sureties, to justifie the matter of complaint; or otherwise to pay costs to the Defendant; and in default of such proof, was many times committed to prison for his wrongful vexation. The Defendant likewise most commonly gave bond for the peace, or for the good abearing, as the case required.

In the third year of the Reign of King *Henry* the Seventh, a Statute was made, by which the persons therein named were authorized by their discretions to examine certain offences, and the same to punish according to the effect of the Statute-laws. The words be these.

The King our Sovereign Lord remembreth how by unlawful *Maintenances*, giving of *Liveries*, *Signs* and *Tokens*, and by Retainders by Indentures, promises, and other writings, or otherwise, Embraceries of his Subjects, untrue demeaning of Sheriffs in making Pannels, and other untrue Returns, by taking of mony by Juries, by great Riots and unlawful Assemblies, the policy and good Rule of the Realm is almost subdued; and for not punishing those inconveniencies, and by occasion of the premises, nothing or little may be found by inquiry, whereby the Law of the Land in execution may take little effect,

to the increaſe of Murthers, Robberies, Perjuries, and unſurety of all men living, and loſſes of their lands and goods, to the great diſpleaſure of Almighty God: Therefore it is ordained, for reformation of the premiſes, by authority of the ſaid Parliament, that the Chancellor and Treaſurer of *England* for the time being, and Keeper of the Kings privy Seal, or two of them, calling to them a Biſhop and a temporal Lord, of the Kings moſt Honourable privy Council, and the chief Juſtices of the Kings Bench and Common Pleas for the time being, or two other Juſtices in their abſence, upon Bill or Information put to the ſaid Chancellor, for the King or any other, againſt any perſon for any miſbehaviour aforeſaid, have authority to call before them, by writ or privy Seal, the ſaid miſdoers, and them and others, by their diſcretions, by whom the truth may be known, to examine; and ſuch as they finde therein defective, to puniſh them after their demerits, after the form and effect of the Statutes thereof made, in like manner and form as they ſhould or ought to be puniſhed, if they were thereof convict after the due order of the Law, *Anno* 3. *H.*7. *c* 8.

And in the 21 year of King *Henry* the Eighth, a ſupplement was made to this Statute, in theſe words.

The Chancellor, Treaſurer of *England*, and the preſident of the Kings moſt Honourable privy Council attending upon his moſt Honourable perſon for the time being, and the keeper of the Kings privy Seal, or two of them, calling unto them one Biſhop and one Temporal Lord of the Kings moſt Honourable Council, and the two chief Juſtices of the Kings Bench and the Common Pleas for the time being, or other two of the Kings Juſtices in their abſence, upon any Bill or Information hereafter to be put in; the Chancellor of *England*, Treaſurer, Preſident of the

the Kings said most Honourable Councel, or Keeper of the Kings privy Seal for the time being, for any misbehaviour before rehearsed, from henceforth have full power and authority to call before them, by writ of privy Seal, such misdoers, and them and other by their discretion, by whom the truth may be known, to Examine: and such as they shall find defective, to punish them after their demerits, after the form and effect of the said former Statutes thereof before made, and not repealed or expired, in like manner and form as they should or ought to be punished if they were thereof convicted after the due order of the Kings Laws.

So that by these two Statutes, the judicious handling of eight offences came to be performed by this Court without any enquest or verdict, but by the only examination of the parties themselves, or of competent witnesses, or of both: a course not permitted by the Common Law, whereby no tryal was allowed, but only *per legale judicium parium*, as *Magna Charta* acknowledgeth.

Nevertheless by these new Laws, the offences named in them, were to be punished in no other degree in this Court, then they were before upon conviction by Judgment, and tryal by verdict.

SECT. III.

Of unlawful Maintenance.

I Shall here make a particular enumeration of the several offences determinable in this Court by the forementioned Statutes; the first whereof is *Maintenance.*

This word *Maintenance* seemeth to be derived of the Latine words *Manu tenere*, to hold by the hand, because he that maintaineth doth as it were hold by the hand, or taketh and holdeth the cause of another man as fast, as if it were his own proper business: And therefore maintenance is a kinde of conspiracy made by two or more persons against some other; because the very party to the cause, and that other who steps in to the furtherance of it, do combine themselves together, and do make a complot against the adverse party to the same. And this may be aswel for matter hanging in suit or plea, as for some other cause not being brought into plea or action. But *Maintenance* is commonly understood of causes in suit, as when one that hath no interest to a matter in Question, will either give money to Counsel, or will take some interest of purpose to make the cause seem to be his own, or will shew himself (and give his speech or countenance) for the one side, at the time that matter shall be heard or tryed; or will terrifie or discountenance the contrary side, or generally will do any thing for the one party, to the hinderance of the free course of Justice against the other.

There is one kinde of *Maintenance* that hath a special name, and that is *Champarty*; because the party to a suit giveth to some other man (for *Maintenance* sake, *Campi partem*, that is) some part of the thing in demand, or otherwise some profit going out of the same. And *Champartors*, saith the Statute 3 *Ed.* 1. be they that move pleas and suits, or cause them to be moved by their own or other mens procurement, and sue them at their own proper costs, to have part of the Land in variance, or part of the gains that may come by the suit.

Now Champarty is committed, either by Officers or

or private men; and is evil enough in them both; but greater in publike persons then in private men, for they have advantages which private persons want, the help of their Offices, and more skill and authority to work their mischief; for if it be permitted that every one (specially Officers) may maintain the quarrel of another, either by his purse or power, then shall the cause of the poor and honest be overthrown, and the wicked shall be emboldned to do injury. Therefore the Laws have according to the diversity of the offence ordained sundry punishments, as first,

1. *None of the Kings Counsellors, Servants of his houshold, Officers of his Courts, or great men of the Realm, shall take upon them to maintain any Quarrels or parts in the Country to the disturbance of the Common Law: Upon pain that every Officers Body, Goods and Lands shall be at the Kings pleasure.* 1 Ed. 3. c. 14. 4 Ed. 3. c. 11. 20 Ed. 3. c 4. &, 1 R. 2. cap 4.

2. No man shall by any means buy or sell, or take promise or covenant to have any pretended Right or Title to any Lands, Tenements or *Hereditaments*, unless he that so selleth, promiseth or covenanteth, or his Ancestors, or they by whom he claimeth, have been in possession thereof, or of the Reversion or Remainder thereof, or have taken the Rents or profits thereof, by the space of one whole year next before such sale, covenant or promse, upon pain that such seller or promiser shall loose the whole value of the thing bought or promised, and that such buyer or taker of promise, (knowing thereof) shall likewise loose the whole value thereof

3. No man shall by any sinister labour or means maintain any matter or cause, to the disturbance or hindrance

hindrance of Justice; upon pain to loose 10 *l.* for every offence. 32 *H* 8. *cap.*9.

4. No Sheriff or Steward of any Court shall suffer any *Barretor* or maintainer of Quarrels in their County-courts or other Courts, upon pain that the King shall grievously punish both the Sheriff, and him that so doth. 3 *E.*1. *c.*32.

5. No person (after forceable entry by him made into any Lands, or after the holding of the same with force) shall make any Feoffment or discontinuance thereof (for maintenance sake) to any Lord or other person, to defraud the possessor of his Recovery. And if it may be proved, then that Feoffment or discontinuance shall be void. 8 *H.*6. *c.*9.

6. No person shall so maintain any Riot, Rout or unlawful Assembly, that the same thereby may be found by the Jury charged to enquire thereof, upon the pain of Imprisonment, and to forfeit 20 pounds. 19 *H.*7. *c.*13.

7. Touching *Champerty*, it is ordained that such as take Pleas to *Champerty*, by any craft or means, shall if they be any of the Kings Councellors, household-servants, Justices of his Courts, or Ministers there, have three years imprisonment, and make fine at the Kings pleasure, 21 *E.*1. And if they be other persons then such, then they shall forfeit so much of their own lands and goods, as the thing that they have so bought shall be worth, 28 *Edw.*1.

SECT. IIII.

Giving of Liveries.

THe next fault or Criminal following Maintenance, was giving of Liveries, Badges, or tokens, or other

other signs: it partaketh of the same nature as Maintenance, being also a kinde of conspiracy to maintain in some person or party, and to make it great withal.

For on the one side, Noble or mighty men, and Gentlemen, perceiving that the tryal of causes in the Country proceedeth ordinarily by the mouths of Yeomen, or Freeholders, they did many times retain such men into their Avowment, service and protection; offering them their countenance and authority, that they also may receive reciproca favour, and good help, by their Solicitation and means amongst the Freeholders of the Country, that be their Neighbours, Friends and kindred.

And on the other side, these good fellows finding shelter under the cloth of a great one, against such storms as may arise upon them, many of them finding themselves so invested, take from thence the boldness to offer wrong to their Neighbours; as they were glad at the first to be defended from them.

There were likewise, and still are, under one covert or another, another kinde of league and alliance of equals, amongst the base and vulgar sort of people, being an usual combining of many into one body, suiting themselves into some common Mark, whereby they might be known each to other of them.

Now although these conventions may at the first view deceive many with a vizard of *Amity*, *Love*, and *Brother-hood*, (such a crew there lately were, and still are, if the last Lord Mayor hath not broke the knot, calling themselves *Bulfeather men*) yet the wisdom of the Law, (that is able to unmask such fraud) hath discovered many dangerous evils that lye and lurk underneath them, they being the seeds and Weeds of Atheists, Mutinies, Factions, Schisms, *Tumults*, and Rebellion.

And

And besides that, the common course of Justice between man and man is greatly interrupted by these confederacies; so as hardly any man who is not a party to such a conjuration, could hardly ask his right of any of them, or defend himself from injury offered by them, the cause of every one of them being used as the common cause and quarrel of them all.

There is another wicked Crew of Common-wealth Caterpillers, such are notorious offenders against some useful penal Statute, and link and encircle themselves together all in a conjuration, to keep a Common Stock amongst them, to persist in their wickedness, and by subornation, and all manner of villany, to shelter themselves from the Law: a notorious knot of such confederates there are, who are great offenders in many staple commodities, whereof those that abuse the Kings Laws and people in the commodity of Leather are not a few; and against these, the before mentioned Statutes, and these following, have armed their power. But they are so subtil in their practices, as the Common course of the Law will hardly detect them; but will doubtless persist in perpetration of their injuries, until this Court of *Star-chamber* reassume its Power and Authority to chastise them.

Against giving of Liveries are ordained, Stat. 16 *R* 2. *c*.4. 20 *R*.2. *c*.2. 1 *H*.4. *c*.7. 7 *H*.4. *c*.14. 8 *Ed*.4. *c*.2. 3 *H*.7. *c*.12. 7 *H*.4. *c*.14.

SECT.

SECT. V.

Embracery.

THis may be taken for a member of maintenance, or elſe it ſignifies the ſeducing of Jurors to pervert Juſtice, the which is more properly called, and moſt commonly known by the name of *Embracery*, and yet is a kinde of maintenance and conſpiracy alſo. Statute, 28 *Ed.* 1. *&* 38 *Ed.* 3. *c* 13. defineth them to be *Embracetors*, which do Sollicite and procure inqueſts to make gain and profit.

It not unfitly took this name from the French word *Embracer*, which ſignifies to kindle or ſet on fire: So he that laboureth to make a Jury for one ſide or party, doth Metaphorically kindle or ſet them on fire, by incenſing their minds againſt the other party.

Or it may be taken from the French word *Embraſſher*, that is, when one taketh another in his arms, and as we ſay in Engliſh embraceth him: ſo he may be ſaid to be the *Embracer* of a Jury, that maketh much of them, and embraceth them in the arms of fair ſpeech, gifts or promiſes, to allure and win them to the one ſide againſt the other.

So that if any perſon take upon him to labour and ply a Jury before they come at the Bar, for the one ſide; or for to affray them when they be at the Bar; or by any means endeavour to corrupt them, for the help of the one party againſt the other, he is a ſpecial maintainer under the name of *Embracery*.

Now what miſchiefs may enſue by corrupting and impriſoning the opinions of Jurors, in this Realm, (wherein

(wherein the chief proceedings in Law is by the means of them) every man may see no less mischief accompanying it, than the secret undermining, ruine and overthrow of all Law, Right and Justice.

Against Embracers *the Law hath ordained,*

That if any person shall for his own gain imbrace any Jury or Inquest, he shall lose ten times so much as he received; and if he have not whereof to answer so much, then he shall endure a whole years imprisonment: But if he shall embrace a Jury without taking any thing for his labour, he shall pay ten pounds for every such his offence. Stat. 38 *Edw.* 3. *c.*12. 32 *H.*8. *c.*9.

SECT. VI.

Offences in making of Pannels.

THose that study to accomplish their ends *per fas aut nefas*, perpetrate their designs further then to cease here: for though they be mighty to maintain, and well accommodated with *Retainers* and *Follwers*, and can well deal with Jurors and Inquests; yet they go further, to procure the Sheriff or his Clerks to return and impannel such men for them, as they themselves should nominate or like. Now to prevent this mischief, the Statutes have provided against two Misdemeanors of Sheriffs, and referred them both to the correction of this Court the Star chamber: and the one is offences in making of Pannels, the other falshood in returns of writs.

For as in that part of his Office touching the Impannelling

pannelling of Jurors, the good Demeanor of the Sheriff maketh much to the furtherance of Right; and his corrupt dealing, may highly advance injury and wrong: so also by all other his returns and answers to his Majesties Courts, he may greatly help or hurt the matter in Question; either by winning time against the Plaintiff by his dilatory returns of his writs and process, or wronging the Defendant by untrue answer made of that which he hath in charge; or abusing both them and the Court, by sending no return at all. Touching Pannels generally, it is provided by the Statutes, 42 *Ed* 3. c. 11. 34 *Ed.* 3. c. 4. 18 *H.* 8. *c.* 14. 8 *H* 8. *c.* 2.

SECT. VII.

Taking money by Jurors.

IT may certainly be presumed, that if Jurors take money to give their verdict, they will with *Judas* betray the truth. And if it be most true that gifts and bribes will prevert the Judgement even of the wisest, then how can it be other wise, but that the common man shall be drawn aside and corrupted thereby? And therefore when the Jurors, that be more then half Judges of the controversie, shall pledge the one of the parties in that cup of poyson which he hath brewed to destroy the life of his adversaries Right; what can be looked for, but that the better side shall have the worse, and the fall?

Against this evil it was ordained, 34 *Ed.* 3. c. 8. That if a Juror in any inquest to be taken for the King, or between parties, do keep any thing by himself, or by any other of the parties Plaintiff and Defendant

Defendant, to say the verdict, then he shall pay *decies tantum*, ten times so much as he hath taken; whereof the one half to be to the King, (whose justice and judgement he hath perverted,) and the other half to the party, or any other that will sue for the same; and if he have not to satisfie the Law, then to have the imprisonment of a whole year.

SECT. VIII.

Riots, Routs, and Rebellious Assemblies.

THe Statute of 3 *H.*7. doth call some Riots great: and sundry former Laws do note two manner of Riots; the one less, in respect of the small number of persons that commit it, and in regard of the small terror, disturbance or hurt that ensueth of it; the other great and hainous, because it savoureth of a more general disobedience, even to the shaking of the Estate; and is or may be in regard of the number or quarrel, a very seed of Mutiny and Rebellion.

And therefore the Statutes of 5 *Rich.* 2. *c.* 6. *&* 7 *R.* 2. *c.*2. *&* 6. do term the Riots of this latter sort, by the name of Rumours, great Ridings, Routs and Riots against the Peace. The Statute 2 *H* 5. *c.*9 calleth them assemblies of people in great number, in manner of Insurrection: and the Laws, 5 *R.*2. *c.*5 *&* 1 *Marl.*1 *c.*12. do name them Rebellious Insurrections, and Rebellious Assemblies.

But the offences of all these sorts are at this day distinguished by three several names, that is, unlawful Assembly, Rout and Riot

An unlawful Assembly is commonly taken to be, where

where a company of three persons or more be gathered together, to the end to commit forcibly an unlawful Act.

A Rout is likewise construed to be, where such a company of three or more, being gathered to such an intent, do move forward, by going or riding, to the putting of their intentions in practice, and yet do not come to the actual handling and execution of their purpose.

A Riot is the very effect and final act of such a company of three or more assembling, proceeding and putting in execution forceably that unlawful act which they intended.

As if three persons or more under the number of twelve, do assemble themselves unlawfully to beat any person, or to enter forcibly into the house or land of any other, or to pull down the Inclosures of any Parke, Warren, or ground inclosed, or to destroy any Fish-pond, Pool or Dovehouse, or to do such other act; and being so assembled, do go forward about the same, and do effect their desire, then is this an unlawful assembly for their first meeting; a Rout for their moving forward; and a Riot in the end by their execution.

This word Rout we still retain from the *Saxon* Ancestors, who to this day call a band or company of men riding together by the name of *Rot*. Riot we have borrowed of the French *Rioter*, to brawl or scold, because most commonly outragious deeds do follow contentious and scolding words.

The punishments which the Law hath ordained to be inflicted upon such Assemblies, Routs and Riots, be these: they shall be taken by the Justices of the peace and Sheriffs, and be cast into the next Gaol, till they have made fine and Ramsome to the King. 15 *R.2. cap.5.*

Rioters attainted of great and *hainous* Riots, shall be imprisoned one whole year at the least, without Bail or Mainprize, and then make grievous fines: and such as shall be attainted of *petite* Riots, shall have imprisonment, and make fine, as shall seem good to the Kings Justices, 2 *H* 5. c. 8.

But if the number of such an assembly be twelve or above, that shall attempt any of the things prohibited by the Statute made against rebellious and unlawful assemblies, *Anno* 1. *Marie Regin.* and do continue together by the space of an hour after Proclamation orderly made for them to depart, then is their offence Felony, and may receive punishment by the ordinary course of the Common Law.

SECT. IX.

Counterfeits of false tokens.

THere was a Statute made *Anno* 33 *H* 8. c. 1. against the counterfeiters of privy tokens and false Letters in the names of others, for the obtaining of money or goods from any persons; and touching such there is special direction of power given to the Lords and other of his Majesties Councel in the *Star-chamber*.

Very high was the honour and authority of this Court, being awed by the personal State and presence of the Kings Majesty himself, or by such as were neerest in the Stair of Authority under him. I have spoken thus much of the original power, and usage thereof; I shall say a word or two more of the practical proceedings thereof, and so leave it, if not for precedent, yet for antiquity.

SECT.

SECT. X.

The practice and Fees of the Star-chamber.

BEtween party and party, the leading proceſs is a *Subpœna* againſt the Defendant.

After the return of the *Subpœna*, the Defendant hath four days to make his appearance, which he muſt be careful to enter.

And for the appearance and Attornies Fee for the whole Term, he pays 5 *s.* 4 *d.*

If the Defendant appear not in due time, there being Oath made of ſerving the *Subpœna*, an attachment is awarded againſt the Defendant, for which the Plaintiff pays for the Oath, warrant for the attachment, and writ and ſeal, 7 *s.* 4 *d.*

If the return of the *Subpœna* be at a day certain, the Defendant hath that day and the next to appear.

If the Defendant be taken upon an attachment, he muſt put in ſecurity to anſwer his contempt, the Fee whereof is 2 *s.*

A Defendant may, if a Bill be exhibited againſt him, and he have notice thereof, appear thereunto *Gratis*, and anſwer without proceſs.

If the Sheriff return *Nihil feci* upon an attachment, the Plaintiff may have an *Alias* attachment; for the warrant thereof, writ and ſeal, 5 *s.* 10 *d.*

If the Sheriff return *Non eſt inventus* upon the attachment, the Plaintiff may have an attachment with Proclamation.

For the warrant thereof, 3 *s.* 4 *d.*

Writ, 2 *l.* 2 *s.* 6 *d.*

And if the Defendant do not appear upon the Proclamation, the Plaintiffs Sollicitor is to call for the return thereof, which the Sheriff will return *Prochamari feci*; and thereupon the Plaintiff may sue forth a commission of Rebellion, directed to five such Commissioners as he shall name, to apprehend the Defendant, the Fees whereof are for the warrant thereof, 3 *s.* 4 *d*

Writ and Seal, 15 *s*

If the Defendant appear upon any of the attachments, the Plaintiff may have him committed to the Fleet for his contempt upon order herein: for entry and copy of the order herein, 3 *s*

Where note, it is no contempt until the Councel shall order and judge it a contempt.

If the Defendant after he hath appeared upon an attachment, do depart without answering of the contempt, his bond may be estreated into the Exchequer, and order may be for his commitment likewise, notwithstanding the advantage to be taken of the bond.

The Plaintiff must, before he hath any warrant for the process, put into the Court a perfect Bill, or else a Bill *Pro forma.*

If the Plaintiff do exhibit a Bill *Pro forma*, so much time as the Defendant hath after the return of the *Subpœna* to make his appearance, even so much time hath the Plaintiff to make his Bill perfect.

If the Plaintiffs Bill be not put into the Court in due time, the Defendant may get himself to be dismissed with costs.

The Clerk of the Court hath two shillings out of every twenty shillings assessed for costs.

For the warrant to lead the writ whereby to demand it, 2 *s*

For the writ and seal, 2 *s.* 6 *d*

If

If upon ſerving of the ſaid writ for coſts, and Affidavit on that behalf, the coſts be not paid by the Plaintiff, the Defendant may have an attachment againſt him.

The form of which attachment, *ut ſupra.*

The Defendant hath eight days after his appearance entred, to put in his anſwer, ſo as he do appear in due time.

For the copy of the Bill, for every ſheet, 1 *s*

If the Defendant cannot appear in perſon, by reaſon of impotency or other lawful cauſe of hindrance, he may upon Affidavit made in that behalf, have a *Dedimus poteſtatem*, to take his anſwer in the Country, as is uſed in Chancery.

Fee for the Affidavit herein, 2 *s.* 4 *d*

The copy thereof, 2 *s*

The *non*-appearance of every ſeveral Defendant ſerved to appear, and having this benefit, payable in Court, 1 *s.* 4 *d*

For every the like for the ſame to his Attorney *per* piece, 1 *s.* 8 *d*

For ingroſſing the Bill, for every ſheet thereof, 8 *d*

The warrant, 3 *s.* 4 *d*

The Writ and Seal, 7 *s.* 2 *d*

If the Oath to juſtifie the impotency in the ſaid caſe cannot be made, then the ſaid *Dedimus poteſtatem* muſt be obtained by order from the Lord Keeper, upon ſuit to him to be made in that behalf.

Fee for the entry of this order, 3 *s*

For the other Fees, *ut ſupra.*

If neither the Affidavit of impotency can be made, nor the Lord Keepers order can be had, then means muſt be uſed to procure the Plaintiffs conſent, that the anſwer may be taken by *Dedimus poteſtatem* in the Country: which if it be alſo denyed, there is no remedy but the Defendant muſt anſwer perſonally under the peril aforeſaid.

After a Commiſſion of *Dedimus poteſtatem* is gone forth to take an anſwer in the Country, it muſt be returned after it is executed by Oath, unleſs one of the Commiſſioners himſelf bring it.

Fee for the Oath in this caſe, 4 *d*
For entry thereof, 1 *s*

But if the delivery be made by a Commiſſioner, it ſaveth both the Oath and the charge thereof.

And if the Defendant in this caſe do not anſwer in time, then the Plaintiff may take out an attachment, and proceed with proceſs of contempt, *ut ſupra.*

And if a *Dedimus poteſtatem* be granted to the Defendant to make anſwer in the Country, the Plaintiff may, if he pleaſe, joyn with him therein, and miniſter Interrogatories for the Defendant to anſwer unto likewiſe.

If the Plaintiff do joyn with the Defendant in the *Dedimus poteſtatem*, and the *Dedimus pot.* is obtained by Affidavit made *ut ſupra*, the Plaintiff muſt bear the one half of the charge of the writ and ſeal.

Fee for the warrant for the writ. 3 *s*
The writ, 7 *s.* 2 *d*

The Plaintiff hath four days after the Defendant hath delivered in his anſwer, to put in his Interrogatories, whereupon the Defendant is to be examined.

Fee for the copy of the anſwer, for every ſheet thereof, 1 *s*

The Plaintiff, if he ſo pleaſe, may omit the putting in of any Interrogatories to examine the Defendant after he hath anſwered, for he is not bound thereunto.

And if the Defendant do depart out of Town before he be examined upon Interrogatories as aforeſaid, then the Plaintiff may have an attachment againſt the Defendant for ſuch his departure.

Fee for the warrant *inde*, 3 *s*

For

For the Certificate of the Examiners, to teſtifie that the Defendant is not examined, 1 *s.* 6 *d*
For the writ, 2 *s*

And upon the ſaid attachment the Plaintiff may proceed to a Commiſſion of Rebellion againſt the Defendant in manner as aforeſaid.

If the Interrogatories be put in by the Plaintiff, the Defendant may be examined thereupon.

Fee for the examination, 2 *s.* 4 *d*
For admittance to Attorney, 2 *s.* 4 *d*

But if no Interrogatories be put in by the Plaintiff, within the time limited as aforeſaid, then after the time, which is four days, the Defendant may ſafely depart out of Town.

Provided that the Defendant do obtain from the Examiners a certificate to teſtifie that the Plaintiff hath not yet put in any Interrogatories againſt him.

Fee for the certificate, 2 *s.* 4 *d*
For his admittance to Attorney, 2 *s.* 4 *d*

And if the Defendant do demur to the Plaintiffs Bill, then the Defendant is to move the Court, that his ſaid demurrer may be referred to the examination and conſideration of ſome of his Majeſties Judges of either Bench, or to ſome of his Majeſties learned Councel; and that they may certifie back to the Court whether the ſaid demurrer be ſufficient or not.

For the entry of the order hereupon, 3 *s*

And if the Juſtices or his Majeſties Council learned in the Law to whom the ſaid demurrer is ſo referred and committed, do upon examination and conſideration thereof, certifie to the Court that they finde the ſaid demurrer to be ſufficient, then the Defendant payeth to the Plaintiff forty ſhillings coſts.

And the Plaintiff may have a *Subpœna* againſt the Defendant to make a better anſwer.

Fee for the entry and copy of the Certificate, 2 *s*
The warrant for the writ to call the Defendant to make a better anſwer, 2 *s*
The Writ and Seal, 2 *s*. 6 *d*

And if the Defendant do not pay unto the Plaintiff the ſaid ſum of forty ſhillings ſo awarded for the inſufficiency of the demurrer, and that upon the return of the *Subpœna* to make a better anſwer, then the Plaintiff may have a *Subpœna ad ſolvendum* againſt him.

Fee for the warrant thereof, 2 *s*
For the Writ and Seal, 2 *s*. 6 *d*

And if the Defendant do not pay the Plaintiff upon that *Subpœna*, being ſerved upon him, and Oath thereof be made; then the Plaintiff may have an attachment againſt the Defendant for his coſts ſo awarded, and proceed thereupon *ut ſupra*.

Fees thereof, *ut ſupra*.

If Affidavit be made that the Defendant is ſo aged or impotent that he cannot come to anſwer or demur in perſon, his Demurrer will be accepted as though he were perſonally preſent at the doing thereof.

And then if the Defendant do demur to one part of the Bill, and anſwer to another part of it, the Defendant is to anſwer to Interrogatories touching that part of the Bill unto which he ſo anſwered.

And if upon examination had of the Defendants demurrer, it be certified to be ſufficient; then upon ſuch certificate the Plaintiffs Bill is to be overthrown, and the Defendant is to be diſmiſſed out of the Court, and to be allowed his coſts in this behalf ſuſtained.

Fee for the entry and copy of ſuch certificate, 1 *s*
For the diſmiſſion, 2 *s*
To his Attorney for his Bill of coſts, 6 *s*. 8 *d*
To the Clerks for entry, 2 *s*. 6 *d*

For

For the warrant to lead his Writ *ad ſolvendum*, 2 *s*
For the Writ and Seal, 2 *s*. 6 *d*

Where note, that if neither the Plaintiff nor the Defendant doth move the Court to have the demurrer to be referred in manner aforeſaid, there the cauſe proceedeth no further, but dyeth.

And oftentimes the ſufficiency of anſwer made to Interrogatories, is referred by the Court to Committees: But howſoever the certificate is made thereupon for or againſt either party, no diſmiſſion doth follow thereupon; onely ſome ſmall coſts is awarded to the party on whoſe ſide the certificate is made; for the recovery of which coſts, they may take ſuch courſe and order as is to be taken in caſe of a demurrer.

Fees *inde*, *ut ſupra.*

When the Defendant hath put in a ſufficient anſwer to the Plaintiffs Bill, and is examined upon Interrogatories, then the Plaintiff may reply, and take out a writ *ad rejungendum* againſt the Defendant, wherewith he muſt be ſerved.

The Fees of copies of the anſwer and examination upon Interrogatories, every ſheet, 1 *s*
The warrant to lead the writ, 2 *s*
The writ and ſeal, 2 *s*. 6 *d*

If there be more Defendants then one to the Bill, the Plaintiff is not bound to reply, until they have all anſwered.

And if the Defendant anſwereth generally *Not guilty*, then there ſhall need no replication to be made at all, becauſe they be at iſſue upon the ſame plea; and then the Plaintiff may take out his writ *adjungendum in Commiſſione*, to make the Defendant joyn with him in Commiſſion.

The Fees thereof are as before ſpecified.

And if the Plaintiff do reply before the Defendant

is examined upon interrogatories, he looseth the benefit of examining the Defendant in that cause.

And if the Plaintiff do not reply the next day after the days expired which are given to him in warning to make his Replication, the Defendant may upon such default of the Plaintiff move to have the cause dismissed for want of effectual prosecution.

Fee of entry of the order thereof, 3 *s*

For the Rest, as before for demurrer.

When the Plaintiff hath served the writ *ad Rejungendum* upon the Defendant, and Affidavit be thereof made, he may take out his Commission to examine witnesses.

This Commission is to be directed unto such Commissioners as the Plaintiff and Defendant shall agree upon.

Fee for the Affidavit made for the serving of the writ *ad rejungendum*, 2 *s*. 4 *d*

The warrant 3 *s*. 10 *d*

The Commission, 7 *s*. 2 *d*

If the Defendant do refuse to joyn with the Plaintiff in the Commission, then the Plaintiff may sue out the Commission, and proceed by himself alone.

Or the Plaintiff if he pleases may examine his witnesses in Court.

When the *Suppœna* to rejoyn is served upon the Defendant, he need not to enter any appearance thereupon, but only to rejoyn to the replication.

Fee thereof, *ut supra*

And if the Defendant do joyn with the Plaintiff in Commission, then he must bear half the charge thereof.

If the Plaintiff do delay the suing forth of any Commission to examine witnesses, then the Defendant upon Oath made that he was served to rejoyn, may himself alone take out a Commission to examine on his party.

Or

Or otherewiſe, the Defendant upon ſuch delay of the Plaintiff, may the next Term following move to have the cauſe diſmiſſed.

When the Commiſſion is executed and returned, the Plaintiff or Defendant may aſſign and give to each other a day to ſhew cauſe why publication ſhould not be granted in this cauſe.

Fee for return of the Commiſſion, 4*d*

The Rule of publication, 1 *s*

After aſſignment to publication, and the days ſo aſſigned be expired, if nothing be ſaid to the contrary, the publication may be entred.

For the entry of publication, 1 *s*.

Note, that nothing ſtayeth publication, but it muſt be granted upon

Order,
Affidavit,
Certificate,
or
Conſent.

After publication is ſo had and procured, the cauſe ſtandeth then at the higheſt: for until the hearing, nothing more is to be done in it.

For entring the cauſe into the common Book of hearing, 1 *s*

Laſtly, obſerve that nothing altereth the aforeſaid grounded Rules of this moſt Honourable Court, but onely,

Order,
Affidavit,
Certificate,
or
Conſent.

Which

Which procured upon ſome extraordinary accidents, do ſometimes change the preſcribed cuſtom o proceeding and Rule of the Court.

SECT. XI.

The manner of proceeding in the Star-chamber, ore Tenus.

THis proceeding was generally againſt delinquents for ſpeaking reproachful words, or writing reproachful and ſcandalous Libels and Pamphlets, or for crimes of the like nature.

Now if any delinquent had done or ſpoken any thing worth the hearing and cenſure of this Honourable Court, and be queſtioned for the ſame, and thereupon doth confeſs the fact or words, and ſubſcribeth his hand to the ſame confeſſion made in writing before the Lord Chancellor, Lord Keeper, or any the Lords Judges, or the Kings Councel; and doth when he is called to this Bar to anſwer it, likewiſe confeſs the ſame to be true, and acknowledgeth his hand ſubſcribed to the confeſſion made as aforeſaid; in ſuch caſe the Court uſeth to proceed to ſentence and cenſure according to the nature and merit of the crime.

And if the Lord Chancellor or Lord Keeper, the Judges and Kings Councel, or any other having Authority in this behalf, ſhall take any ſuch examination and confeſſion, yet if the party at the Bar ſhall either deny his hand thereunto ſubſcribed, or the matter therein contained to be true, then the Court doth not proceed to ſentence and cenſure, until the ſame be proved *per Teſtes*.

And

And so I conclude to speak of the practice of this Court; which I have done, that if it ever come in power again, Sollicitors to come may be instructed in the practice thereof; and if not, yet it will be worth the reading for antiquity sake: and to that purpose, before our Sollicitor returns from *Westminster*, let him take a short view of another obsolete Court formerly called the Court of Requests at *White-hall*; the former practice whereof, that future ages may look back a little upon what hath been before them, I shall shortly mention.

THE

THE SOLLICITOR IN THE COURT of REQUESTS: OR, *White-hall* at *Westminster*.

CHAP. XVI.

THe practice of this Court hath ceased ever since the breaking out of the late hellish Rebellion; and is not yet exercised again.

It was a Court of conscience and equity, and handled causes that required moderation of the rigour which the Common Law denounced; so that it participated with the nature of the Chancery; and the practice and proceeding thereof was by English Bill, Answer, Replication and Rejoynder, like to the proceeding of the Chancery; save onely in this they

they differed, that here the Bills were exhibited to the Kings Majesty onely, and to none other; and in that, the Masters of the Requests were sworn of the Kings Councel, and the place was continually served with a Clerk that was always one of the Clerks of the Kings privy Seal, who was the Register of the Court: and a privy Seal, in stead of the leading process of a *Subpœna*, was the Original Writ of this Court.

Or otherwise they did use to summon such as were neer-hand by their Messenger, and proper Officer of the Court.

Their Fees in the point of proceeding were for the most part all alike with those of the Chancery.

But onely there was a difference in the charge of their beginning or entrance into a suit in the Court of Requests, which was a very great hinderance to their practice, and is to any Court whatsoever, to begin dear; it were better policie in beginning easie for suitors, and make themselves amends in the end.

The easie commencing or entrance into a suit for the Plaintiff in the Kings Bench and Exchequer-Office of Pleas, fills those two Courts so full of business; and the chargeableness of beginning a suit in the common Pleas, makes that Court so thin.

So formerly in this Court in stead of two shillings six pence which you pay in Chancery for a *Subpœna*, here they pay at least for a summons by privy Seal, 8 *s.*

Or if the summons were made by the Messenger in Town, you pay to him for his pains 3 *s.* 4 *d.* for every Defendant summoned, besides the warrant to do it, for which they paid *ad libitum*, what you please.

So that this great burden at the very entrance into a suit here in this Court, did very much hinder it, and will be worth the consideration to moderate it,

it

if ever this Court reassume her former power and practice.

For the antiquity of this Court, there can no other beginning thereof be conceived, then together with the very Regality and Kingdom it self, forasmuch as they of this Court have not had always their standing place of resort, but have anciently remained and removed with the King whithersoever he went, travailing between the Prince and Petitioners by direction from the mouth of the King.

About the eighth year of King *Henry* the seventh, this Court was setled in the place called the *White hall* at *Westminster*, which Room or Chamber is now called the Court of Requests.

The books of the acts or entries thereof were orderly digested and kept there, wherein were recorded the handling of the causes not onely of poor men and the Kings servants, but of sundry noble persons, Abbots, Knights, Esquires, and other rich and wealthy Complainants.

Yet of latter years the Bills of complaint exhibited there, did usually carry one of these two suggestions, *viz.* either that the Complainant was a very poor man, and not able to sue at the Common Law, or that he was one of the Kings Servants ordinarily attendant upon his person, or in his household.

The Masters of the Requests are neither called by Writ, nor appointed by Commission, nor created by Patent, as other Judges be: which argues the immediate authority of the Prince to be exercised by them; but onely have Letters Patents for their Fees and Salary.

The Clerkship of this Court hath beyond all memory been committed to a Clerk of the privy Seal, who was Register of this Court.

The

The Attorneys were anciently but two, but they after wards came to be three; and their places were at the disposition of the Clerk.

The Original and first leading process of this Court as I said before, was a privy Seal, after which if the party appeared not, there issued an *Alias* privy Seal, attachment, and writ of Rebellion, if the contumacy of the Defendant stood out so far in contempt.

In the formality of the rest of their proceedings, the course differed not much from the order and practice of the high Court of Chancery.

THE SOLLICITOR IN THE MARSHALSEY, And Court of the Kings Place At Westminster.

CHAP. XVII.

THe Court of Marshalsey is an ancient Court of Record, ordained to determine suits between those that are of the Kings house, and others within the verge.

The Judges of this Court are the Steward, and Marshal of the Kings house, who have Cognizance of all manner of pleas of trespass committed within the verge of the same house, so as either party be of the same house; and of all other actions personal, wherein both parties are the Kings servants: and this is the proper jurisdiction of the Marshals Court, or Court of Malshalsey.

But

But the *Curia pallacii*, or Court of the Palace, was erected by his late Majeſty, by his Letters Patents dated 2 *Julii Anno Regni ſui ſexto*, and made a Court of Record, called The Court of the Kings Palace at *Weſtminſter*, for the tryal of all perſonal Actions between party and party, the liberty whereof extendeth it ſelf twelve miles round *White-hall*: which Juriſdiction is ſince confirmed by his now Majeſty King *Charles* the ſecond, ſince his happy reſtauration.

This Court is kept every Friday in the Court-houſe on Saint Margarets hill in *Southwarke*, and may be held in any place within the juriſdiction, that is (as is ſaid before) within twelve miles of *White-hall*.

The Judges of this Court, are the Steward of the Kings houſe, and Knight-marſhal for the time being; and the Steward of the Court, or his depury, being always a Lawyer.

The proceedings in this Court is by *Capias*, or attachment, which is to be ſerved upon the Defendant by one of the Knight marſhals men, who taketh bond with ſuch ſureties for the Defendants appearance at the next Court, as he will be reſponſible for.

This proceſs may be had at ſeveral places within the Liberty of the Court, appointed by the Steward, which every Marſhals man can readily help you to.

The Defendant upon his appearance, muſt put in Bail to anſwer the condemnation of the Court; which if he neglect to do, the Plaintiff may have the bond taken for the Defendants appearance aſſigned over to his uſe.

The next Court after the Bail is taken, the Plaintiff ought to declare and ſet forth the cauſe of his

Action, and so afterwards proceed to issue, and tryal by a Jury, according to the course of the Common Law.

In four or five Court-days, commonly a suit is in this Court brought to tryal; so that their proceedings are quick and speedy, unless an *Habeas corpus cum causa* carry away the plaint into the Kings Bench or common Pleas, as it usually doth if the cause be considerable.

In this Court they hold pleas of all manner of personal actions whatsoever, as Debt, Trespass, Battery, Slander, Trover, and all actions on the case, *&c.* But many times very Poor people are arrested by process out of this Court at the suit of wicked cruel Creditors, or malitious persons, for very small and inconsiderable causes, and are often put to much more charges then their debt or damages amounts unto, to their no small detriment; and many are by such usurious Creditors cast in prison for very small matters, which the Defendants poverty cannot satisfie according to the Misers greedy desire, *&c.*

The Fees of the Palace-court or Marshalsey, as they are granted by the Letters Patents dated 12 *die Julii, Anno sexto Caroli primi Regis*, do here follow.

The ordinary Fees of the Palace-court of Westminster, *to be paid by the Plaintiff.*

Inprimis, for every writ or precept of *Capias* or attachment, to the Steward and Marshal, 1 *s*
To the Prothonotary for writing the writ, 2 *d*
To the Marshals man for executing or serving it, 1 *s.* 4 *d*
The Attorneys Fee upon every Declaration, issue, *Venire facias, & Habeas corpora Juratorum*, 1 *s.* 8 *d*

For

For the Warrant of the Attorney to the Prothonotary, 4 *d*
For making of every Declaration, and entry thereof, to the Prothonotaries Clerks, 1 *s*
For the Fee of the Court upon every Declaration, Iſſue and knowledge of ſatisfaction, to the Steward and Marſhal, 1 *s*. 4 *d*
For the marking and filing of every Declaration, and entry of every ſatisfaction, to the Prothonotary, 8 *d*
To the Prothonotary for entring of every iſſue, and every verdict and judgement, 1 *s*
The Cryers Fee upon every Iſſue, 4 *d*
For every writ of *Venire facias*, *Habeas corpora*, *Diſtringas Jur.* and for every other writ of execution and others, 1 *s*. 8 *d*
To the Prothonotary for writing every of them, 4 *d*
For the return of every one of them, to the Prothonotary, 1 *s*
To the Marſhals man for executing every *Venire facias*, 2 *s*
For the executing the *Habeas corpora* & *Diſtringas Jur.* to the Marſhals man, 1 *s*. 6 *d*
To the Cryer for warning of the Jury, 6 *d*
For every verdict and judgement thereupon, to the Marſhal and Steward, 3 *s*. 4 *d*
To the Marſhals man for keeping the Jury, 1 *s*
To every Councellor at Law for his Fee, 5 *s*
To the Cryer for proclamation of every Jury, 6 *d*
To the Attornies Clerk for every Bill of coſts, 8 *d*

The ordinary Fees to be paid by the Defendant.

For the Knight-marſhals Fee upon every arreſt, 3 *s*. 6 *d*
To the Prothonotary thereupon, 10 *d*
To the Keeper of the priſon thereupon, 4 *d*
To the Turn-key thereupon, 4 *d*

For every Bail in Court, and every *Lil.* thereupon, to the Steward and Marshal, 1 *s.* 4 *d*
To the Prothonotary for entring every Bail, 5 *d*
To the keeper of the prison thereupon, 1 *d*
For the Attornies Fee upon every *Lil.* of Issue, *Venire facias, & Habeas corpora Juratorum*, 1 *s.* 8 *d*
For the copy of every Declaration, to the Prothonotary, 1 *s*
For every issue on the Defendants part, to the Steward and Marshal, 1 *s.* 4 *d*
For every warrant of Attorney for the Defendant thereupon, to the Prothonotary, 4 *d*

Accidental Fees.

For every Rule of Court, to the Prothonotary, 4 *d*
For the drawing of every Declaration, Plea, Rejoynder, Surrejoynder, *Moratur in lege*, for every sheet, to the Prothonotaries Clerk, 4 *d*
For the Inrolment thereof, to the Prothonotary, for every sheet, 8 *d*
For every writ of *Subpœna*, to the Steward and Marshal, 2 *s*
For the writing thereof, and of every *decem tales*, and of every *retrazit*, to the Prothonotary, 6 *d*
For the allowing of every writ of *Procedendo*, to the Steward and Marshal, 1 *s.* 8 *d*
For the entry thereof, and of every continuation, and for the assigning of an obligation for appearance on Record, to the Prothonotary, 8 *d*
For executing every writ of *Scire facias*, to the Cryer, 1 *s*
For the copy of every Record, to the Prothonotary, for every sheet thereof, 4 *d*
To the Cryer upon every *non pros.* 4 *d.*
For every *Venire facias*, *Habeas corpora*, or *Distringas Jurator.*

Jurator. per Proviſo, to the Steward and Marſhal, 12. 8 *d*
For writing thereof, to the Prothonotary, 4 *d*
For executing thereof, to the Cryer, 2 *s*
For the return thereof, to the Prothonotary, 1 *s*
For the keeping of the Jurors thereof, to the Cryer, 1 *s*
For every *Non proſ.* and every allowance of every writ of *Habeas corpus*, writ of Priviledge, Superſedeas, and every other ſuch-like writ, to the Steward and Marſhal, 1 *s*. 8 *d*
For the entry of every one of them upon Record, to the Prothonotary, 8 *d*
For the return of every ſuch writ, to the Steward and Marſhal, 1 *s*. 4 *d*
For writing of the return thereof, for every action, to the Prothonotary, 1 *s*
For the allowance of every writ of Error, to the Steward and Marſhal, 1 *l*
To the Prothonotary for the entry thereof, 2 *s*
For every writ of Superſedeas, 2 *s*. 6 *d*
For certifying of Records, to the Prothonotary for the writing of every Roll of Parchment thereof, 6 *s*. 8 *d*
For commitment of every priſoner in execution, to the Keeper of the priſon, 1 *s*. 6 *d*
For the Prothonotaries Clerks Fee thereupon, 1 *s*. 6 *d*
To the Turn-key thereupon, 1 *s*. 4 *d*
For the Prothonotaries Clerks Fee, for the entry of the cauſe of ſuit, and releaſe of every Priſoner, 4 *d*
Upon every obligation of appearance of the Priſoner, to the ſaid Clerk, 6 *d*

Amerciaments due unto the King in the said Court,

Of every Defendant for denying his act,	1 *s*
Of every Plaintiff *pro falso clamore*,	6 *d*
For every defendant in *Misericordia*,	1 *s*
Of every party *forecapt. per Judicium Curiæ*, for his Fine to the King.	1 *s*

We have now passed all the *Westminster*-courts, and this of the Palace; so that now we will return into *London*.

THE

THE SOLLICITOR IN *LONDON*.

CHAP. XVIII.

Of the cuſtoms of London, *and divers Statutes made wherein* London *is excepted.*

SECT. I.

Of Aliens and forreiners.

AN Act was made that all Aliens in or about *London*, ſhall be within the governance of the Corporation of the Myſtery or Craft whereof they are, and taxable to their Myſtery, 14 *H.* 8. *c.* 2. And afterwards a Decree was made in the *Star-chamber*, and an Act that ſuch ſtrangers ſhould pay ſcot and lot, tax and tallage, *&c.* as the Maſters, Wardens, and Companies do; and that they ſhall

make Oaths and other things, 21 *H.*8. *c.*16.

An exception is for the Merchants of the Stilliard, that they ſhall not pay any other cuſtoms then they uſed by their Franchiſes, but that every other denizen ſhould, 22 *H.*8. *c.*8

That every ſtranger may ſell his Merchandizes by ſafe conduct of the King in any place of *England*, and to any perſon except to the Kings enemies. 2 *R.*2. *c.*6. Merchand.17. and after that, a ſtranger might ſell, as he might before, ſaving the Franchiſes and Liberties of the City of *London*, 6 *H.*4.*c.*4.

That aliens and denizens may buy and ſell Merchandizes coming to *London* in groſs, and not by retail, paying the cuſtoms; and ſhall not be diſturbed by the Citizens of *London*, notwithſtanding any Franchiſe heretofore proved to the Citizens of *London*. 7 *H.*4. *c.*9.

Every man who bringeth Merchandizes to *London*, or other Cities, Burroughs, or Ports of the Sea, may ſell in groſs, or by retail, notwithſtanding any Franchiſes, grants or cuſtoms to the contrary. 25 *Ed.*3 *c.*2.

Aliens and forreigners, being in amity with the King of the Realm, who came with Fiſh, and other Victuals to *London* or other places, ſhall have ſafe conduct. 6 *R.*2. *c.*40. Victual.5.

SECT. II.

Divers Statutes made wherein London *is excepted, and their Cuſtoms confirmed.*

THe City of *London* ſhall have all their old Liberties and Cuſtoms which it hath been uſed to have, and all other Cities, Burroughs and Towns; and the

the Barons of the five ports, and all other ports ſhall have their liberties and free cuſtoms. Stat. *Magna Charta*, Cap.9.

There was a very beneficial Charter made for the City of *London*, *Anno* 7 *H.*7. for by that Charter the Citizens of *London* ſhall enjoy all their liberties, priviledges and franchiſes, *Licet uſi non fuerint, vel abuſi fuerint.* Rot. Patent. 7 *R.* 2. *Nu.*37.

That all perſons ſhall have their liberties and cuſtoms, which they had before *Magna Charta*, *c.*37. Franch 3.

Another Statute was made to uſe the Franchiſes in quiet till the coming of the Juſtices in *Eire*, without uſurpation upon the King in Cities, Burroughs and Merchant-towns; and if they do not come at the day, the liberties ſhall be ſeized into the Kings hands in name of diſtreſs. Stat. 30 *Ed.* 1. *Quo warranto.* Franch 5.

By the Statute *de Tallagio non concedendo*, That all perſons ſhall have their liberties and cuſtoms, and that all cuſtoms made to the contrary ſhall be void. Franchiſes 5.

Another Statute which confirms Cuſtoms and Uſages of Cities, Burroughs and Towns. Franch.9.

The liberties of the Church confirmed by Statute 14 *Ed* 3. *c.*1. 25 *Ed.*3. *pro Clero*, *c.*1. 1 *R.*2. *c.*1. 3 *R.* 2. *c.*1. 2 *R.* 2. *c.*1. 5 *R.*2. *c.* 1. 1 *H.* 4. *c.*1. 5 *Ed.*3.*c* 4.

The liberties of the Church, and of Cities and Burroughs and Franchiſed Towns are continued by Statute 2 *H* 4. *c.*1. 7 *H.*4. *c.*1. 9 *H* 4. *c.*1. 3 H.5. *c.*1. 2 *H* 6. *c.*1.

An Act was made that none ſhould pardon treaſon, felony, *&c.* but the King; and that none ſhould make Juſtices of the peace, or other Juſtices, but the King; and

and that all Original Writs, and Judicial, and Indictments of Treason, felony and trespass, shall be in the name of the King, and the *Teste* in the name of a Lord of a County-palatine, where they have privilege of making such Writs; and that every Indictment against the peace shall be supposed to be against the Kings peace: and that the Liberties shall have their Justices of peace, and other Justices, as they used to have. And that all Officers shall be attendant upon the Justices, as they used to be: and that the returns shall be as they were used, and by such Officers: and that purveyors may make purveyance within liberties as well as without: and that the King shall keep Courts within the verge, and not those of the Liberties; and that the Kings Clerk of the market, and none other, shall execute the Office of the Clerk of the market, within Liberties or without; but not in *London*, who shall keep their Clerk of the market, as they might have done: and that the penalties of Sheriffs shall extend to Officers of Liberties; and that Justices within Franchises shall use their liberties as largely within the Franchises as other Justices may do, and shall keep their Sessions at the times they used to do, with promise that it shall not be prejudicial to any usage, *&c.* of any City, Burrough, *&c.* But that they shall have such Fines, and amerciaments, *&c.* which they have by the Kings grants and usages, as they used before, as if this Act had not been made; with a proviso that the Temporal Steward of the Bishop of *Ely* shall be a Justice of peace, and use the Function there, as all other Justices of the peace without *Ely* may; and so of the Chancellor of the Bishop of *Durham*, and *York*, *&c.* Statute 27 *H.*8. *c.*24.

A Statute that all Liberties and Franchises to houses of Religion, or to any Honours or Land, *&c.* appertaining

appertaining to them, and within the Court of Survey, are revived, and ſhall be exerciſed as before; and the profits of them ſhall be to the King: and ſo of the Franchiſes of the Lands of perſons attainted, they ſhall be revived; and that the Sheriff do not intermeddle otherwiſe then he might do before; with a *Proviſo* that every perſon ſhould uſe ſuch Liberties which they have by the Kings Letters Patents, under one of the Kings Seals, by Parliament, or by any legal grant, or leaſe of any perſon by legal title, Sanctuaries excepted; ſaving to every perſon ſuch Offices, Fees, Annuities, which of Right they ought to have, as if the Act had not been made: and that when the King comes within the liberty or Franchiſe, then the Franchiſe ſhall ceaſe for the time; with *Proviſo* that the Act ſhall not be prejudicial to *London*; and that certain Temporal Franchiſes of certain *Priories* ſhall be within the Survey of the County-palatine of *Lancaſter*; and that ſuch Liberties as Priors there have, ſhall be revived, and the profits ſhall be levied by the Officers of the Franchiſe; and they ſhall be attendant at every Court: with promiſe that it ſhall not be prejudicial to any Honours, lands, *&c.* of the County-palatine, nor to the Five ports. Statute 32 *H* 8. *c.*20. 33 *H.*8. *c.*39.

The Mayor of *London* may remove all the Kidd'es in the waters of *Thames* and *Medway*, and conſerve the peace between *London* and the Bridge of *Staines*. 13 *H.*2 *c* 9

A Statute was made, that of all breaches made by the River of *Thames*, where the Mayor hath the conſervation of the peace, and the breaches are in the lands of other Lords, that the Mayor of *London* ſhall not have the governance, nor Rule, nor authority in any of the ſaid breaches, nor the puniſhment in any ſuch place and Creeks for the uſing of unlawful nets. Statute 4 *H.*7. *c.*15.

An

An Act was made for the conveying of the River *Lee* to *London*, 13 *Eliz.* c. 16.

An Act that the Sheriffs and Mayor of *London* for the time being, may give liberties, 8 *H.* 6. *cap.* 4.

That the Justices of the peace and *Quorum* in *London* and *Middlesex*, and other Cities and Burroughs, may let to bail felons and prisoners as they have accustomed, within their jurisdiction, and take examination of bonds, *&c.* 1 and 2 *Phil.* and *Mary*, *c.* 13 Mainprise 7.

That grants of the Office of Alnage by the City of *London* shall be good, notwithstanding the Statute which makes the Kings Letters Patents void, 31 *H.* 6. Office 8.

That Sheriffs have not power to arrest any by force of Indictments before him, but that he deliver the Indictments to the Justices of peace, upon a pain; Proviso that it extend not to the Sheriffs of *London* as to any Indictments taken within the City. Statute 1 *E.* 4. *c.* 1.

The Liberties of the *Guild Theutonicorum* is confirmed, saving to the Mayor and Sheriff of *London* their liberties 19 *H.* 7. *c.* 21. *Stillyard.*

That *London* shall take Scavage, called *Shewage*, of any Merchant-Denizen within the City, according to the right of the City, but not in other Towns, 19 *H.* 7. *cap* 8.

The general Act for Tythes doth not extend to *London*, because there is another Act for it, 27 *H.* 8. *cap.* 21.

That the sums collected for the poor in *London* shall be paid to the Governour of the Hospitals. 2 and 3 *Mary*, *c* 5

Every one who bringeth victuals to *London*, may sell it without disturbance, to Fishmongers, Butchers, Poulterers, and others; and that the Mayor and Alder-

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men may redreſs the faults of Fiſhmongers, Butchers, or Poulterers, as of thoſe who ſell Wine, Ale or Beer, notwithſtanding Charters of Franchiſes, Cuſtoms or Preſcriptions, or other Priviledges to the contrary. 31 *E* 3. *c.* 10. victual 4.

That all Sellers and Victuallers, as well Fiſhmongers as others, with their Victuals coming to the City of *London*, be under the rule and governance of the Mayor and Aldermen, as anciently they uſed to be. 7 *R.* 2 *c.* 11.

Note that the allowance for finding of Orphans, according to the ancient rates and cuſtoms of *London*, or other City where the like cuſtom is, ſhall not be taken for uſury. 13 *H.* 8. *c.* 8.

That Malt that ſhall be made in the Counties of *Huntingdon*, *Cambridge*, *Northampton* and *Bedford*, which ſhall be brought to the City of *London*, be well ſifted, cleanſed and purified before it come thither; and the Mayors, Bayliffs and Wardens of ſuch Towns and places, where ſuch Malt ſhall be ſold, to ſee and ſearch the ſaid Malt; and that there be eight buſhels to a Quarter: and if default be made thereof, to redreſs it. 17 *R.* 2. *c.* 4.

That no Citizens of *London*, or other the Kings ſubjects inhabiting in the five ports, or other, being free of Prizage or Butlerage of Wines, by grants, cuſtom, or otherwiſe, cuſtom no Wines of any perſon not being free of Prizage or Butlerage. 1 *H.* 8. *c.* 5. 3 *H.* 7. *c* 7. What ſhall be paid for freight from *London* to other parts beyond the Seas: Statute 32 *H.* 8. *cap.* 14.

SECT.

SECT. III.

Divers Statutes made for London.

THat no Butcher kill any Ox or other meat within the Walls of the City of *London*, nor other Cities, Boroughs, or walled Towns, *&c.* 4 H. 7. cap. 3.

Yet now the Butchers in London *generally keep their Slaughter-houses within the Walls, as in* Pincock-lane *by St.* Nicholas Shambles, *a most noisome place: Nay they do worse then this; for they usually blow the meat, especially Veal and Lamb, with their putrified poisonous breath, to no little damage of the People, yet no congrueus remedy is yet provided against them.*

That Shoomakers, Saddlers, *&c.* who cut Tanned Leather in *London*, and the Suburbs, shall not curry any tanned Leather within his house, 5 Ed. 6. repeated by 5 Eliz. cap. 8. and that Leather shall be bought at *Leaden hall*; and what search the Mayor of *London* shall make, or cause to be made; and under whom the Survey of Artificers shall be, 5 Eliz. cap. 8.

That the Wardens of the Coopers, with the Officers of the Mayor, shall search and view all manner of Barrels, Kilderkins, *&c.* 8 Eliz. cap. 9

For Cloaths packt at *London* and carried to Southampton, see the Statute of 13 E. 4 cap. 3. Cusloms 13.

That all Cloaths be measured by the Kings Aulnager, and his Deputies, in all Cities, Boroughs, and other Towns within Franchises; and if they be less then the measure, to be forfeited: and if the default be

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in the aulnager, he to be imprisoned. 25 *E.*3. *Stat. de pannis Drapery* 5.

That the Merchants of *London* be as free to pack their Cloaths, and quit of packs as are all other Merchants, and other strangers within the City, or within other Cities or Burroughs within the Realm; and the Letters Patents to the contrary shall be void. 1 *H.*4. *c.*16.

That all Woollen cloaths, half cloaths, Sleits and Kerseys, *&c.* be sealed with Wax at both ends, and that more be not taken for it then used to be: if not in *London* and *Bristol*, that they be sealed with Lead. 17 *E.*4 *c.*5.

That Cloaths shall be searched openly in *London*, and that Cloaths upon Tenter shall not be drawn more in length or breadth, then before by the surveyance of Mayors, *&c.* 1 *R.*3. *c.*8.

That Cloaths shall be pressed in *London* with a cold Press without *Covin.* 4 & 5 *Phil. & Mary. Drapery* 52.

That every Citizen of *London* may carry Leather, or go with their victuals, Wares or Merchandizes to any Fair or Market, notwithstanding any ordinance in *London* made or to be made, 3 *H.*7. *c.*9.

That Fishers sell their Herrings freely at *Yarmouth*, and that Londoners who buy them sell at a certain price of gain, when they have bought them, 31 *E.*3. Statut. *de Callis cap.* 2. Fishers 9.

The Mayor and Wardens of the Sheermen of *London*, shall enter and search the Workmanship of all manner of persons using the broad sheers, as well for Fustian as Cloath; and for the execution of that Art as well of Denizens as Forreigners and strangers. 11 *H.*7. *c.*27.

That the Mayor of *London* and the wardens of Tallow-chandlers, shall search all Oyls, that they be not mixt, and they to have the punishing of them:

and ſo in all other Towns. 3 *H.*8. *c.*14. Oyles 1.

What wages Water-men ſhall take upon a paſſage to divers places from *London*, 6 *H.* 8. *c.*7. and eight perſons of the Water men to be appointed yearly by the Mayor of *London*, to be the Overſeers and Rulers of all Wherries betwixt *Graveſend* and *Windſor*, 2 and 3 *Mary*, *cap.*36.

SECT. IV.

Apprentices.

IT was enacted that none ſhould be an Apprentice within a City or Burrough, if his Father could not expend of Rents or Lands 20 *s. per annum*; and that his friends ſhould be impriſoned for a year, and fined and ranſonced; and he who receiveth ſuch Apprentice to forfeit 4 *l.* 7 *H.*4. *c.*7. and after *London* is excepted; and the cuſtoms ſhall be at the Kings will, 8 *H.*6 *c.*13. And afterwards the Citizens of *Norwich* are excepted out of the firſt Statute, 11 *H.*7. *c* 9. 19 *H.*7. *c.*17. and that every one may take or put to Apprentice in the Trade of Worſted-makers, within the County of *Norfolk*, any woman, notwithſtanding 12 *H.*7. *cap.*11.

Note that in the Statute of Iabourers, nothing is ſpoken of apprentices, but as it ſeems referreth all to the uſages of Towns and Burroughs; but ſpeaks of Labourers and Artificers which are for husbandry: and if artificers, as Free Maſons, rough Maſons, Bricklayers, and ſuch artificers, and their apprentices and ſervants working within *London*, ſhall not be rated by the Statute; but if they work out of *London*, then they ſhall take ſuch wages as the Statute appoints. Statute 7 *H.*8. *cap.*6.

That

That every houſholder of the Age of twenty four years who dwels within any City or Town Corporate exerciſing any Art, Myſtery, or manual occupation, may retain the ſon of any Freeman not occupying husbandry in it, or of another Town, to be bound as Apprentice according to the Cuſtom of *London* for ſeven years at the leaſt; but of a Merchant trafficking beyond the Seas, or Mercer, *&c.* ſhall not retain any there to be inſtructed in their Art, *&c.* if the Father or Mother of ſuch apprentice, or the apprentice himſelf have not forty ſhillings Lands or Tenements in Fee or Freehold, and the ſame to be certified; and that in other Towns and Markets, the Sons of the Inhabitants ſhall be apprentices, *&c.*

And if a Merchant take an apprentice, *&c.* That then his Parents ought to expend three pounds *per annum*, *&c.* in Lands, *&c.* and that all others may be apprentices to meaner occupations out of Burroughs, *&c.* although their Parents have not any Lands: with a Proviſo that the Citizens of *London* and *Norwich* may retain apprentices according to their Cuſtoms before the Statute, and that the retainment of others be according to the Statute, and not otherwiſe, Stat. 5 *Eliz. cap.* 4.

SECT. V.

Attaints and Inqueſts.

NOne ſhall be impanelled, ſworn or ſummoned upon an Inqueſt in any Court within the City, if he have not lands or goods of the value of forty Marks; or, for land or action perſonal, where the debt and damages exceedeth forty Marks, if he hath not lands or goods to the value of 100 Marks, the

party to have a vail thereof by way of Challenges, and ſuch perſons impannelled, to forfeit in iſſues 12 *d* and ſo to double, *&c.*

And that upon a falſe Verdict there, attaint ſhall be by Bill in the *Huſtings*, and the form how they ſhall proceed, and who ſhall be Judge, and that the Trial ſhall be there and not elſewhere, and that none of the grand Jury, or petty Jury ſhall be puniſhed otherwiſe then is limited by the Statute: that every of them ſhall forfeit 20 *l.* and be impriſoned by ſix moneths: and that upon affirmance of the firſt Verdict, that they may enquire if any of the petty Jury took reward, *&c.* and that he loſe *decies tantum*, and to be impriſoned, and diſabled to be ſworn as a Juror; and an action of debt is given for the Plaintiff in the attaint, (who hath loſt his debt or damages) to ſue where he will; and if the Plaintiff be *non-ſuit* in attaint, that he ſhall be impriſoned, and ſhall be fined; and party Inqueſts ſhall be in attaint, where of the party is a ſtranger. Stat. 11 *H.7.cap.* 21. attaint, 13.

Note that in attaints in *London*, he who is worth an hundred Marks, ſhall be a ſufficient Juror, without challenge upon the Statute of 23 *H* 8. and that the Juſtices ſhall ſit at the *Guild Hall*, or other convenient place within the City, to ſwear the grand Jury, and to take the Verdict; and that *London* ſhall not be compelled to ſue attaints, but within the City. Stat. 37 *H.*8.*cap.*5.

A Challenge that the party hath nothing within the Ward, ſhall be void. Stat 7 *H.7.cap.*4.

The Sheriffs of *London* may return pannels in the Exchequer, of Citizens having goods of the value of an hundred Marks, to be tried at St. *Martins* by *Niſi prius*; and if it be before any Juſtice otherwiſe to be tried, then he may return Jurors according to the uſage without forfeiture, 5 *H.*8.*cap.*35. Jurors 14. 15.

All

All persons within Cities or Burroughs who are worth 40 pounds, shall be admitted Jurors in trials of murders and felonies, in every Sessions and Gaol-delivery to be holden in and for the Liberty, *Proviso* that it do not extend to any Knight or Esquire who dwells there, 23 *H.*8 *cap.*13. Jurors 16.

Oyer and *Terminer* shall be of all Felonies throughout the whole Realm, without prejudice to the Franchises and Liberties, and to the five Ports, but they to enjoy their Liberties as before, 2 *E.* 3. *cap.*7. *Oyer.* 3.

SECT. VI.

Of the Commission at S. Martins.

Nisi prius shall be at St. *Martins le grand.* Book Entries 402. *P.* 2.

Of Error sued in *London*, the Record shall be brought before the Justices of St. *Martins*: and here it shall be certified by the Recorder by word and not otherwise, and it shall be accepted by the Court for the Record; and if he fail in any word of the Record alledged, it shall not be amended, 20 *E.*48. *P.*

Whatsoever the antient practice in this place was, there is no such thing at this day as any *Nisi prius* tried there. It is a Liberty wherein there is a Court of Record kept weekly every Wednesday, for the trial of all personal actions of what nature soever; and there is a Court house and a Prison. It is distinct from the Government of the City of *London*, although it be within the Walls thereof, but is within the Deanary of *Westminster*, and subject to the Liberty thereof, and hath a particular jurisdiction wi hin it

itelf. The leading proceſs is a *Capias* againſt the body, or an Attachment againſt the goods: ſo that a mans goods may be arreſted there in his own houſe upon the firſt proceſs, and carried away, as well as his body, if he be not taken; which is one of the kinds of *Summum Jus*; as the practice of all Antique Liberties or Franchiſes is.

SECT. VII.

Where by the Cuſtom of London *a man may Wage his Law*, Et e contra.

IN Debt for board in *London* brought in the Common Pleas, or Kings Bench, the Defendant may wage his Law; although the Cuſtom be contrary if the action be brought in *London*, for ſuch uſages are not maintainable here, but within the Court where the cuſtom is, *M.* 1. *E.* 46. *P.* 1.

In Debt brought in *London*, the Defendant did wage his Law; and the Plaintiff ſhewed that there is a Cuſtom in *London*, that if the Plaintiff can ſhew any Bill or writing ſealed and delivered by the Defendant, teſtifying the contract, that the Defendant ſhall not be received to wage his Law; and ſhewed ſuch a Deed of the Defendant, which did not maintain his Declaration, nor to be the ſame contract; and the Recorder was there, and read the Cuſtom: and the Court ſaid, that if the plaint and the ſpecialty had agreed, that the defendant ſhould have been ouſted of his Law. As in Debt at the Common Law, for the buying of a Horſe for ten pounds, if the Defendant will wage his Law, the Plaintiff ſhall ſtop him, by a ſpecial proving of the contract: ſo of a Receipt, if the Defendant

ſay

ſay he was never his receiver, and render to wage his Law, the Plaintiff may ſtop him, by ſhewing a ſpecialty, 39 *H* 6 34.35.

By the cuſtom of *London* in debt upon contract, the Defendant ſhall not be admitted to wage his Law, if two of the City will come and ſwear before the Mayor and Aldermen, that the contract was true: who did ſo, whereupon the Defendant brought a writ of priviledge to the Sheriff of *London* to bring the priſoner with the cauſe; and the cauſe of priviledge was, becauſe he was indicted in *B.* of a treſpaſs done in *M.* againſt the peace; in which caſe he ought to pay a Fine to the King, and therefore it ſhall not be intended covin for the avail of the King; and alſo becauſe it was ſet by the twelve Jurors.

But if it were a ſuit between party and party which give cauſe of the priviledge, there the ſame Term, becauſe the Record is in the breaſt of the Juſtices, they will examine if the ſuit here were by covin, and how the warrant of attorney, and all the circumſtances before the priviledge ſhall be allowed: but if the ſuit be entred in another Term, then the covin ſhall not be examined, but the Court ſhall believe the Record, ſo as the priviledge ſhall be granted: and ſo here, becauſe the King is party, 2 *Aſſ.* 3.16,17.

A ſtranger may wage his Law againſt papers of Citizens who claim debts, without putting the matter to enqueſt, 38 *E* 3.*c.* 5.

In Debt upon account before auditors aſſigned: where no ſuch auditors were, nor any Receipt, there upon examination of their attornies, within Cities and Burroughs, the party may be received to wage his Law at the diſcretion of the Juſtices, 5 *H.* 4.*c.* 8.

SECT. VIII.

Feme sole Merchant.

A *Feme covert* shall have actions without her husband by the Custom of the City of *London*, and an action may be brought against such a woman sole Merchant without naming her husband, 1 *E.*4. *P.* 1. 35 *H* 6.38.

Where a Plaint is entred against a husband and wife in *London* because the wife is a sole Merchant, or against another in finding of better sureties there; if the suit be here in trespass or otherwise, and the wife appeareth upon an Exigent, upon an *Habeas corpus*, or cometh in upon a *Cepi corpus*, so as she cannot make an Attorney here, although the Plaint be upon the Custom only, for which no remedy is at the Common Law, yet the prisoner shall be discharged of the first suit, and shall be sent to the Fleet. And if he who is outlawed coming to sue forth his Charter of pardon be arrested, he shall have his priviledge: and so it is of one who cometh to sue forth a writ of Error, he shall have his priviledge here, if he be arrested in the Kings Bench, *M.* 9 *E.*4 35,36.

Where a gift of goods by a woman is pleaded in Bar, in an action of trespass brought, if the Plaintiff saith that the woman was his wife at the time, if he say that the custom of *London* is that women are sole Merchants, &c. the same is a departure, *H.*7. 21 *H.* 18. *P.*1.

In *London*, debt upon a simple contract is good against an Executor, *M.* 1 *E.*4 6. *P.*1.

SECT.

SECT. IX.

Whereby the cuſtom of London *an Action will lye before the day to finde better Sureties.*

IT is ordained, that a Merchant may cauſe his debtor to come before the Mayor of *London*, or of any other Town, and a Clerk by the King appointed, to acknowledge his debt, and the day of payment, *&c.* Vid. Stat. *Action Burnel.* 11 *E.* 1. Recogn. 1. And afterwards it is enlarged by the Statute *de Mercatoribus*, and a more ſpeedy remedy is given, 13 *E.* 1. Recogn. 2.

The cuſtom of *London* is, that if a man be Fugative who is indebted, that the Creditor may arreſt him to finde better ſureties; but he ſhall not recover before the day of payment, 5 *E.* 4. *London* 24.

Where one is arreſted in *London* to finde better ſureties, if the ſuit be here in treſpaſs, or otherwiſe, and he comes in by *Cepi corpus*, although that the Plaint be upon the Cuſtom onely, for which remedy is at the common Law, yet the Priſoner ſhall be diſcharged, 9 *E.* 4 35.

The Cuſtom of *London* is, that one may be arreſted before the day of payment to finde better ſurety, 11 *H.* 6. 3 *p.* 1.

SECT.

SECT. X.

Of market Overt.

THe cuſtom of *London* was pleaded, that they have a comon Market, for all goods, Chattels and Merchandizes bought and ſold in every part of the City, in all ſtreets and ſhops upon every day except Sunday, from the riſing of the Sun to the ſetting thereof; and that he bought at two of the Clock in his open Shop. *Book entries*, 317. p.1.

The cuſtom of *London* was pleaded in treſpaſs, to have a Market every day, and ſaid that the Merchandizes were brought to his ſhop, and that he ſold them to him, *B. entr.* 606. p.1.

Note that every one in *London* claimed to have a Market every day of the week in his Shop. M. 35. H.6.33.

Preſcription to hold a Market every day in the week is good in *London*, although the Sunday be forbidden by the Statute, and that it ſhall be forfeit.

SECT. XI.

Of Covenant without Deed.

AN action of Covenant lyeth in *London* without a ſpecialty, and divers other actions by cuſtom which do not lye at the common Law: and of ſmall contracts under forty ſhillings, for which an action doth not lye by writ. *H.*14. *H.*26.p.1. SECT.

SECT. XII.

Of Conceſſit ſolvere, *upon contracts made at Sea.*

OF a contract made beyond Sea, and upon an account here between the Parties, if the party by Bill grant to pay it upon the recoming, *Conceſſit ſolvere* lieth in *London* upon the recoming: for before that account there was no remedy within *England*, nor no remedy for it at the Common Law: and although that the Bill doth recite the Merchandize, yet the *Conceſſit ſolvere* doth not rehearſe the Merchandize ſold, but generally for certain Merchandizes, Goods, and Chattels, *ſibi primo vendit*, *conceſſit ſolvere* p. 38 *H.* 6. 30 p. 1.

SECT. XIII.

Taking Goods to pledge.

IT was agreed, that the cuſtom to keep goods of any perſon put to him in pledge by the Cuſtom until he be paid, is not good: And if it were a Cuſtom, it ought to be by antient Charter of the King, and by continuance after. But the Cuſtom of attaint in *London* is good, and alſo that the Creditor may arreſt ſuch goods which the Debtor hath in his poſſeſſion; and that if none come within the year to make claim, that then they ſhall be appriſed for the duty; And that a Feme ſole Merchant may be ſued without her Husband (as is ſaid before,) and

every

every one in *London* claims to have a Market Overt every day of the week in his shop.

But note, that though by the Custom of *London* every mans shop is his market, it is for such goods as belong to his Trade: as if a Goldsmith buy stollen plate in his own shop, it is justifiable; but if he buy it in an Alehouse, or any other Tradesmans shop, it is otherwise.

SECT. XIV.

Of Mainpernors for the Defendant.

THe Custom of *London* is, that he who is Bail for another, in a plaint of Debt or Trespass to answer the action, that if he be condemned, that the Plaintiff shall have Execution as well against the Bail, or one of them, as against the Principal, at his Election. And it was holden that in such case he may maintain for the charge which shall be upon him.

The Custom of *London* was alledged, that if any matter be pleaded to issue, which cannot be tried by those of the City, that then the party shall be examined upon it: and then that judgement shall be according to that which is found by the examination: and if the party refuseth to be examined, that then judgement hath used to be given against him. Book Entries, 203.

SECT.

SECT. XV.

Of Sequestrations.

BY the Custom of *London*, in an action of Debt, the Defendant shall have four defaults: and if he cannot be found, but hath shut up his shop and is gone, a precept shall be to a Serjeant at the Plaintiffs request to sequester the goods in his house, 11 H. 7. 2. p. 2.

SECT. XVI.

Contribution.

DEbt was upon the Custom in *London* because the Plaintiff and three others were bound joyntly and severally in one Bond, and one pays all the Debt or part, or the whole is recovered against him; he may have an action of Debt for the partition against the other Obligors. Entr. 1650.

THE

THE SOLLICITOR IN THE COURT of REQUESTS,

Usually called

The *Court* of *Conscience*, for the Recovery of small Debts, and relief of Poor Debtors in *London*.

CHAP. XIX.

TOuching the first beginning of this Court, it is recorded, that *primo Februarii*, *Anno* 9 *H.* 8. an Act of Common Councel was made, that the Lord Mayor and Aldermen of the same City for the time being, should monthly assign two Aldermen and four discreet Commoners, to be Commissioners to sit in the same Court twice a week, *viz.* Wednesday and Saturday, there to hear and determine all matters brought before them between party and party, being Citizens and Freemen of

of *London*) in all caſes where the due debt or damage did not exceed 40 ſhillings.

This Act was to continue but for two years then next enſuing; But being found charitable and profitable for the relief of ſuch poor debtors as were not able to make preſent payment of their debts, and to reſtrain malitious perſons from proceeding in their wilful ſuits, and alſo to be a great eaſe and help to ſuch poor perſons as had ſmall debts owing to them, and were not able to proſecute ſuits in Law for the ſame elſewhere: The ſame Act hath ſince been continued by divers other Acts of Common-councel; and hereby (beſides the ſaid two Aldermen monthly aſſigned,) the number of Commiſſioners were increaſed from four to twelve; and ſo by that authority the ſame Court continued till the end of the reign of Queen *Elizabeth*, *&c.*

And then divers people, being Citizens and Freemen of *London*, (contrary to their Oaths formerly taken,) repining at the authority of the ſame Court; and not regarding the expence of any charges, how great ſoever, ſo they might have their deſires upon their poor debtors; and being often animated thereunto by divers attornies and Sollicitors (for their own particular gain) did daily commence ſuits for ſuch petty debts and cauſes againſt poor men, (Citizens and Freemen of *London*,) in the high Courts at *Weſtminſter*, or elſewhere, out of the ſaid Court of Requeſts, to avoid the juriſdiction of the ſame Court, and to bar the ſaid Commiſſioners from ſtaying ſuch ſuits, and examining the ſaid cauſes; and thereby cauſed the ſaid poor men many times to pay ſix times as much charges as their principal debts or damage did amount unto; to the undoing of ſuch poor men, their wives and children, and alſo to the filling of the priſons with the poor

ſo

ſo ſued, where otherwiſe they might have gotten their debts in the ſaid Court of Repueſts, for very ſmall charge and little trouble.

For remedy for the ſame, and for the ſtrengthning and eſtabliſhing of the ſaid Court, an Act of Parliament was made in *Anno primo Jacobi Regis*, that every Citizen and Freeman of *London*, that had or ſhould have any debts owing unto him, not amounting to forty ſhillings, by any debtors (Citizens and Freemen of *London*) inhabiting in *London*, or the Liberties thereof, ſhould or might cauſe ſuch debtors to be warned to appear before the Commiſſioners of the ſaid Court; and that the ſaid Commiſſioners, or the greater number of them, ſhall from time to time ſet down ſuch orders between ſuch parties, plaintiff and defendant, creditor and debtor, touching ſuch debts not exceeding forty ſhillings, as they ſhould finde to ſtand with equity and good conſcience.

But ſince the making of that Act, divers perſons (intending to ſubvert the good and charitable intent of the ſame,) have taken hold of ſome doubtful and ambiguous words therein, and have wreſted the ſame for their own lucre and gain, to the avoiding the juriſdiction of the ſame Court, contrary to the good and true meaning of that Act.

For remedy whereof, and to the intent that ſome more full and ample proviſion might be made, for the furthering, ſtrengthning, and eſtabliſhing of the ſaid Court, and for the better relief of ſuch poor debtors, another Act of Parliament was made *Anno tertio Jacobi Regis*, whereby the authority of the ſaid Commiſſioners was much inlarged, *viz.* That every Citizen and Freeman of *London* (and every other perſon and perſons inhabiting, or that ſhall inhabit within the City of *London*, or the Liberties thereof,

thereof, being a Tradeſman, Victualler, or Labouring man, which have or ſhall have any Debts owing to him or them, not amounting to forty ſhillings, by any Citizen or Freeman, [*or by any other perſon or perſons (being a Victualler, Tradeſman or Labouring man) inhabiting within the ſaid City or the Liberties thereof*] ſhould or might cauſe ſuch Debtors to be warned to appear before the ſaid Commiſſioners of the ſaid Court of Requeſts; and the ſaid Commiſſioners, or any three or more of them, ſhall have power to ſet down ſuch orders between Plaintiff and Defendant, Creditor and Debtor, touching ſuch Debts not amounting to forty ſhillings, as they ſhall find to ſtand with equity and good Conſcience: and alſo the ſaid Commiſſioners, or any three or more of them, have power (by the ſaid *Act*) to adminiſter an Oath to the Creditor or Debtor, and to ſuch witneſſes as ſhall be produced on each part, and alſo to commit to priſon in one of the Comptors ſuch Creditor or Debtor as ſhall not appear upon lawful ſummons, or not perform ſuch order as the ſaid Commiſſioners or any three or more of them ſhall ſet down. And by this laſt *Act* the ſaid Court of Requeſts (commonly called the Court of Conſcience) is eſtabliſhed and continued to this day.

THE SOLLICITOR In the COURT of the HUSTINGS, Holden in GUILD-HALL, For the City of LONDON.

CHAP. XX.

AS touching the antiquity of this Court, we find it famous and ancient, insomuch that the compiler of King *Edwards* Laws, doth much magnifie it, in these words: There ought always in the City of *London*, which is the head-City of the Kingdom and of the Laws, to be held upon every Monday weekly, a Court of our Soveraign Lord the King at the *Hustings*. It may well be inquired into, how it came by this name, and what the name signifies,

ſignifies: it is in Records diverſly written in Latine, as *Huſtingum*, *Huſtingus*, *Huſtingia*, and ſometimes (though corruply) *Huſtangus*. It is the moſt ancient and the higheſt Court of Juſtice of the famous City of *London*: the name it takes from the place of keeping that Court, (as *Prytaneum* did at Athens,) for (*Hus*) among the old Saxons, ſignified an Houſe; (and ſo we ſpell Huſwife ſtill: and *Ding*, *Dhing* or thing, *D* being by the Saxons, and ſtill amongſt the Dutch, pronounced as *Th.* ſo that *Dhing* or thing, ſignified a cauſe or plea; and *Huſthing*, ſignfied the houſe of cauſes or pleadings: whereupon in the Saxon tongue *Thingere*, *Thingarius*, ſignified an advocate or Lawyer; which others would perchance rather derive from *Thung*, or *Gedthung*, which ſignified honorable, for that the moſt honourable Magiſtrates of the City held their Court there, as the Lord Mayor and Sheriffs, and in the Sheriffs abſence ſix of the Aldermen at this day do ſit in Court there. For the antiquity of this Court, it was founded and erected of old, after the faſhion and manner, and in the memory of the ancient City of *Troy*; and even unto this day, (if we will credit venerable antiquity) contains within it ſelf the Laws, Rights and Dignities, Liberties and Royal Cuſtoms of that ancient and great *Troy*: there be handled the Intricateſt *Accounts*, and the doubtful pleas of the Crown, and of the Court of our Lord the King of the whole Kingdom aforeſaid: and this Court hath even to this day preſerved her own ancient cuſtoms moſt inviolably: Thus ſaith my author; but I doubt he gives them ſomewhat more meaſure then due.

Nevertheleſs ſomething there is in the *Huſtings* which might give countenance to this compariſon of old *Troy*, that is, the well-known weight uſed for Gold and Silver, called *Troy*-weight: and it is probable

that by accounts is meant measures rather then accounts, the word *Compta* signifying measures rather then accounts; and *Comptus Ager*, signifies a field surveyed, whose quantities were set down in the *Terrier*: and there perchance was kept a general survey of all the lands in the Kingdom, as now in the Doomsday-book in the Exchequer, the pattern whereof it is probable the Conquerer took from the *Hustings*.

And certain it is, that the weight called *Troy*-weight, was in the Saxons time called the *Hustings* weight of *London*, and kept there in the *Hustings*.

The former Law of the said King *Edward* the Confessor commands the *Hustings* Court to be kept every Munday, though at this day it be held upon the Tuesday; which that it may not be perceived by the Monuments and Rolls of the Court to have differed too much from the first institution, is yet said and written to be held upon the Monday.

It is as it were distinguished into two Courts: for one week the Judges sit upon pleas meerly real; and the next week upon actions mixt; or of any other nature whatsoever: so that all lands and tenements, rents and services, within the City of *London*, and the liberties and Suburbs thereof, are pleadable at *Guild-hall* within the same City in two *Hustings*; one whereof is called *Husting. de plito terre*, *Husting* of plea of land; and the other *Husting Common. placitor.* *Husting* of common Pleas: the which *Hustings* are held in the *Guild-hall* before the Mayor, Sheriffs and Aldermen of the said City, every week, The days Munday and Tuesday.

If a man be impleaded in the common Pleas of Lands in *London*, the Tenant shall say that the Lands are within *London*, and time out of minde, *&c.* every one hath been impleaded for Lands there within the City

City, in the *Huſtings*, before the Mayor and Sheriffs, *&c.* and not elſewhere: and ſo it is in the five ports, without ſhewing how the Franchiſe began, upon which the preſcription is grounded: for the Liberties of *London* are confirmed by *Magna Charta*; *Quod Civitas habeat omnes libertates ſuas illeſas.* And obſerve, the plea is onely in the *Huſtings*. *M.* 25. 4. 17, 22.

Tenant in Tail of Lands in *London*, deviſed his Lands to his Wife, who is made Executrix, and proved the Will in the *Huſtings*, and yet claimed her Free bench, by alledging that the Cuſtome is, that the Wives in *London*, after the death of their Husbands, had uſed to have the chief Houſe in which the Husband dwelt, to hold for ſo long time as ſhe remained unmarried, as their Free Bench, in the name of Dower; into which Houſes, the Wives after the deaths of their Husbands might enter by the Cuſtom, without any other Execution of Livery: and ſhewed by replication in an aſſize, that ſhe entred; where the Tenants in the aſſize pleaded a diſcent in bar, to ſtop the plaintiff of her Fee-bench, if there were any ſuch cuſtom: and the defendant by rejoynder pleaded, that the Plaintiff proved her husbands Will, and that ſhe was in by force of deviſe, and traverſed, without that, That ſhe was ſeized as of Free bench: and by the opinion of the Court the ſame was good, without ſhewing that the wife had ſued forth execution upon the Will; and afterwards the iſſue was joyned upon the Bar, that the defendants were in without wrong or *diſſeiſin*: and the aſſize found the eſtate in Tail, and that the defendants were not ſeized by diſſeiſin; and the plaintiff was barred in the aſſize. And note there, that it is ſaid, that in an aſſize in *London*, they uſe to ſet down the year and day of the diſſeiſin; which is contrary

to other assizes and actions real and mixt, 20 *Ass.* 4 *Pl.* 16.

Since that real actions have grown out of use by the trying of Titles, and recovering of possessions by *Ejectione Firme*, the ancient customs and practice of this Court of the *Hustings* in *London* have much declined, if not in some measure ceased. But as is now standeth, I leave it.

THE

THE SOLLICITOR IN THE SHERIFFS COURT IN LONDON.

CHAP. XXI.

THe two Sheriffs of *London* do keep each of them a Court of Record within the same City by prescription and Custom, where they hold plea of all personal actions: and have belonging unto these Courts two prisons called the Compters, the one scituate in Wood street, and the other in the Poultry at the lower end of Cheapside.

They have two Court-days apiece in every Week, *viz.* for the Wood street Compter, on Wednesdays and Frydays; and for the Poultry-Compter, on Thursdays and Saturdays.

In a plaint of Debt levyed before any of the Sheriffs, the Custome is, that the said Sheriffs *ore Tenus* send to the Serjeants of the Compter either to

ſummon or attach the Defendant without warrant; and upon *Nihil* returned within the City, that then the Serjeants, and every of them, by the Commandment of the Sheriff, have uſed to attach and arreſt the Defendant, to have his body at the next Court before the Sheriff at the *Guild Hall*, &c.

They do certifie their Records in that manner; but the uſual practice is to enter an action in the Office for that purpoſe at one of the Compters, which action muſt be carefully entred, for it is the Original of that Court by which you muſt declare, and from whence there can be no variance: for if the Action and Declaration agree not, a non-ſuit follows: and when an action is entred, then any one of the Serjeants may arreſt the Defendant, and bring him into cuſtody until he find Bail to anſwer the condemnation; which Bail is taken by one of the Clerk-ſitters at the Compters, who conſtantly attend in that Office *alternis vicibus*.

The Plaintiff ought to declare the firſt Court after the Defendant is arreſted; though further time is uſually given *ex gratia Cur. per mot. Attorn. qui, &c.* But if the Plaintiff have no Attorney the firſt Court, the Defendant may non-ſuit him if he pleaſe.

And if the Defendant be in the Compter, he is brought to the Bar to plead unto the Plaintiffs Declaration, by a *Duci facias*, as they call it, which is but the Sheriffs *mandate* made by the Clerk of the papers.

If the Defendant be a Freeman, he hath four defaults, that is, to appear on the fourth Court after Bail entred; ſo that he hath three defaults Excluſive: but theſe defaults are only allowable in actions of Debt, Account, or Covenant broken, and in no other caſe.

In

In *London* the general assumpsit differs from other Courts: for in an action on the case upon any Assumpsit in *Westminster* or elsewhere, the Defendant cannot wage his Law at all; but here in *London* the general Assumpsit is more beneficial for the Plaintiff, and differs from other Courts, in that the Plaintiff need not to express any particular Consideration in it, or prove his just precise demand: but in a plea of Debt without specialty, the Defendant may wage his Law as well in *London* as in other Courts.

They have in each Court a Steward or Judge who is learned in the Laws; and besides some particular Customs, their proceedings are in all cases generally following the president of the Common Law at *Westminster*. But of their particular practice take this following accompt.

SECT. II.

The particular Practice of the Sheriffs Court in London.

THE Actions usually in this Court are either Pleas of Trespass, Trespass on the Case, Debt, Accompt, Breach of Covenant.

The greatest difficulty is in the entry of actions; for the action is the original, from which there is no variation.

First, Actions of Trespass: which are either for Assaults, false Imprisonment, *Domum* or *Clausum fregit*, coming into another mans house or yard, for taking away another mans goods, or for spoiling of goods, or trespass upon ejectment for title of land.

If an action of Trespass be entred against a man and

and his Wife, and the Wife only arrested, and bailed, or in prison, the Plaintiff may proceed against the Wife, notwithstanding the Husband is not arrested: and the Bail for the Wife are liable to pay the recovery, if the Wife absent her self out of the way.

Secondly, Trespass on the Case: either for words, Book-debts, all *Assumpsits* or promises, all *Quantum meruits*; also for Rent *sine* Lease, or Trover and Conversion.

For words, whether actionable or not, *vide Howel fur* actions of Slander, and also concerning Awards.

In actions of Trover you must prove Property, Possession, or Conversion (being as one) and demand of the goods before the action brought.

If two or three men, or more, buy Commodities joyntly together, the action must be entred against them all. There you cannot proceed, unless there be Bail for all the Defendants.

If an action of the Case be entred against a man and his wife, you cannot proceed against the wife (if bailed) till there be Bail for the husband.

Note that if the Husband be arrested upon an action of the Case, or Trespass against him and his Wife, he shall be compelled to put in Bail for his Wife.

Thirdly, actions of Debt upon Bond or Bill, commonly called Specialties, upon Lease for Rent, upon Judgement or Statute.

If two men be bound joyntly, and not severally, *per* Bill to pay 10 *l.* you cannot sue the one without the other; for the action must be joynt against both: yet if one die, the Survivor shall be sued.

If *A.* be bound to *B.* to pay 100 *l.* at four several payments by Bill, but not in a penalty, the Bill cannot be sued until the last payment be expired: but it is otherwise upon Bond; for there if *A.* be bound

bound to *B* by obligation of 200 *l.* for payment of 100 *l* at four ſeveral payments, there upon the firſt breach of non payment the obligation may be ſued; ſo likewiſe a penal Bill.

Note, that the penalty upon bond or bill is not given by the Court, but onely the principal, intereſt and charge of the Court: unleſs upon obligations with ſpecial conditions, as Obligations upon Counter-ſecurity, or performance of Covenants, or the like: unleſs the defendant plead *non eſt factum.*

You may declare upon a judgement, either in *Guild hall*, or any other Court of the like nature; but not upon a judgement in any other Superiour Court.

Note, that the Defendant upon an action of debt hath liberty (if a Free-man) upon his putting in Bail to mark his four defaults, which will coſt 4 *d.* more (then the Fees of the bail) ſo that he may chuſe to appear by an attorney, till the fourth Court-day after his putting in Bail: if he appear not then, judgement paſſeth againſt him by default, and execution in the afternoon.

If the Defendant be a Forreigner and bailed, if he appear not the firſt Court-day by his attorney, judgement paſſeth alſo againſt him and his Bail.

The Plaintiffs charge.

To his attorney, and for the Declaration and Court, 3 *s.* 10 *d.*

Judgement *per* default, 4 *s.* 4 *d.*

The plaintiff always pays 4 *d.* for not filing his bond in Court.

Fourthly, *Actions ſur Accompt:* which are either for receiving of goods and merchandize, and not giving accompt thereof, or for receiving of money, or for both upon one action.

But

But the Bail for the defendant are not lyable to pay the recovery, but that the defendant ſhall account.

Quere, whether a ſpecial action of the caſe will not lye againſt the Bail, upon their engagement at their becoming Bail to bring forth the body of the defendant, or pay the recovery.

Fifthly, breach of Covenants, either upon Covenant by Indenture, or covenants by articles under ſeal, or any other covenant under ſeal.

If a man be bound by Indenture to pay 20 *l.* quarterly, and a covenant alſo for the payment of it quarterly, together with a Bond for performance of covenants; the Leſſor may ſue the Leſſee either upon an action of debt for his Rent, and ſo declare upon the *redoendum*; or upon the covenant, upon which he may ſue upon every breach: but if he ſue once upon the bond, and have judgement, he ſhall ſue no more upon the bond, for the bond can be ſued but once.

If *A* be executor or adminiſtrator, the action muſt ſo be entred; or if the executor of an executor or adminiſtrator: and ſo alſo againſt the defendant.

Note, that a man may be executor in his own wrong, and may be ſued if he receive and intermeddle with the eſtate of the Inteſtate.

Or, if *A* be the aſſignee of *B*, the action muſt ſo be entred; and ſo againſt *C* the aſſignee of *D*.

Note, that if *D* be the aſſignee of *C*, and *A* takes Rent of *D*, and accepts of *D* as his Tenant, *C* then is out of ſeat to be ſued either for non-payment of Rent, or breach of covenants. Again, if the Rent be 100 *l.* *per annum*, and *D* finds that the houſe will not yeild 50 *l.* *per annum*, *D* may aſſign his right and intereſt to *John Doe*, and *A* ſhall not after the aſſignment ſue *D* for any more Rent: the reaſon being, that he that admits of one aſſignee, admits of twenty.

An

An action remains in force ſixteen weeks; and after bail put in, ſixteen weeks without declaration: if declared, good a year and a day: if Iſſue joyned, in force ever afterwards, and the Plaintiff at all times at liberty to proceed to tryal: if judgement obtained, after a year and a day it muſt be revived.

The withdrawing an action of Treſpaſs, or Trepaſs on the Caſe, or Trepaſs upon Ejectment, 6 *d*: if debt, accompt, or breach of Covenant, 12 *d*.

The withdrawing a Declaration 16 *d*. and ſo if at iſſue, or after ſummons of the Jury upon the pannel, 16 *d*. if withdrawn by conſent, always 4 *d*. more *ex aſſenſu partium*; and the defendant cannot have judgement for charges, otherwiſe he may.

Note, the plaintiff hath four Court-days to declare againſt the defendant, unleſs the defendant be a priſoner, if he ſee his attorney, otherwiſe non-ſuited the firſt.

There is a grand abuſe, when actions are left ſtanding, and not withdrawn after arreſt: by which means oftentimes a poor priſoner is put to great damage and expence; the Sheriffs withal wronged of their due, to whom the Fee for withdrawing belongs. Moſt commonly the parties that injure moſt this way, are Serjeants and their Yeoman. As to the priſoner, there being many men of one name; as admit *John Cooper*, or *John Smith*, or any other were arreſted, the plaintiff and defendant perhaps agree; the Serjeant demands money for withdrawing the action, which is given him: the money is purs'd up, no action withdrawn, becauſe it is not known whether the defendant be arreſted or not It happeneth afterwards that another man of the ſame name is arreſted, and caſt into the Compter: after ſome ſhort time there, happily agrees with his plaintiff, who withdraw his action. The defendant coming to the

the Clerk of the Papers for his discharge, the Clerk searching for sixteen weeks, findes within that time an action entred against him, being an action against a man of the same Name: and he must either give bail to that action (though he be not the party) or must lye in the Compter, until the next Court-day for that Compter, to non-suit the plaint, before he can be discharged. Which is a great expence, cost, and charge to the defendant, being a prisoner; and by this means the Sheriffs are injured of their fees. This if well looked into, poor Prisoners would not suffer as sometimes they do.

The charge of the Plaintiff to Tryal, Judgement and Execution.

The action and arrest,	1 *s.* 4 *d.*
The attornies Fee, Declaration and Court,	3 *s.* 8 *d.*
The issue,	4 *s.*
The summons of the Jury,	4 *s.* 8 *d.*
The Counsel (if but one)	3 *s.* 4 *d.*
The *Subpœna*,	2 *s.*
The Juries verdict,	4 *s.* 6 *d.*
The Judgement,	2 *s.* 6 *d.*
The Execution,	1 *s.* 4 *d.*

But then if the cause be brought again from the Mayor's Court, 4 *s.* 6 *d.* more, which is allowed him for his costs of the *Remandetur*.

Note, if you declare upon a bond, you pay 2 *d.* more upon the Declaration; and if executor or administrator, 4 *s* 6 *d.* or 8 *d.* more.

Note, that if the Jury be a petty Jury under forty marks, it is but 3 *s.* 8 *d.* summons, and 3 *s.* 6 *d.* Verdict: and for every second, third or fourth summons, 2 *s.* apiece for a grand Jury, and 12 *d.* apiece for a petty.

Some

Sometimes an Execution is 2 *s.* 4 *d.*

After Judgement given in Court, you may have Execution presently against the body or goods of the Defendant, and the next day against the Bail; which will cost 4 *d.*

If you take the Defendant in Execution, you cannot afterwards have a *Fieri facias* against the Defendants goods.

If you take out a *Fieri facias* against the goods of the Defendant, it is 2 *s.* 4 *d.* For the executing thereof you are forc't to agree with the Serjeant; so likewise for the return of the Inventory, with the Clerk of the papers. If the Goods in the Inventory appraised by two men amount not to the sum in the Judgement, you may afterwards have Execution against the body of the Defendant for the remainder, or against the Bail.

Note, that if the Bail be in Execution in the Compter, if the Defendant come and submit his body, the Bail will be discharged: or if at any time before they reprieve the Defendant to the action, they are freed.

Also the Bail may of themselves carry the Defendant to prison without an Officer, and reprieve him to the action, paying the Clerk 4 *d.* for marking the reprieve; and so discharge themselves.

Every Declaration that is special, you pay 4 *d. per* sheet for drawing, and 4 *d. per* sheet ingrossing: besides 8 *d.* the Court-Fees; and if Counsel, 3 *s.* 4 *d.* which is allowed by the Court.

Every Counsel extraordinary, though the Plaintiff pay 10 *s.* or 20 *s.* he shall be allowed by the Court but 3 *s.* 4 *d.* a Counsel: but the Court allow three or four 3 *s.* 4 *d.* if on good cause.

All other charge is lost: as what you pay to the Quarter-man for swearing the Witnesses, which is of courtesie, not due, who is to attend the Court; also

also what money you pay above 12 *d.* for the arrest is not allow'd, and also what you pay for taking the Defendant in Execution, or for serving the *Fieri facias* against the goods of the Defendant, and all charges issuing thereon.

The Plaintiff payeth for continuance of his cause after summons before the Court sits, but 8 *d.* if afterwards his witnesses come not, and he moves the Court for a Continuance, then 4 *s.* 4 *d.* so likewise if the Defendant moves to put off a trial, 4 *s.* 4 *d.* which is lost on both sides.

Note, that every Carrier and Waggoner hath of course his return-day given him, if desired by his Attorney: charge four pence.

If the Plaintiff, after the Defendant hath removed his cause, bring down the cause again by a *Procedendo*, for want of putting in Bail; his charge thereof he is allowed, and also 2 *s.* 8 *d.* for the allowance, and what other charge he is at more in relation to a Trial to his Attorney.

An action is usually tried in four Court-days.

The Defendants Fees.

If the Plaintiff appear not the first Court-day after Bail to the action by his *Attorney*, he is non-suited, (unless upon the Defendants marking his four defaults:) and if the Defendant be a prisoner, no *Attorney* appearing, a non-suit without doubt.

The charges then of the Defendant.

Appearance,	2 *s.* 6 *d.*
Non-suit,	1 *s.* 4 *d.*
Judgement,	2 *s.* 6 *d.*
Execution,	10 *d.*
	7 *s.* 2 *d.*

If

If the defendant put in bail to an action, he pays 16 *d.* but if it be against him and his wife, 2 *s.* 8 *d.* if there be no saving harmless upon record: but if saving harmless, every saving harmless 4 *d.*

The Defendants Fees to a Trial.

Appearance,	2 *s.* 6 *d.*
The copy of the Declaration,	4 *d. per* sheet
Issue,	3 *s.* 8 *d.*

If the defendant plead specially, he pays 4 *d.* per sheet for his special plea, and 4 *d. per* sheet ingrossing, 4 *d.* more for his imparlance, (and the plaintiff alike) and 12 *d.* more upon the issue; and if Counsel thereon, 3 *s.* 4 *d.* all allowed.

Fee upon summons,	1 *s.* 8 *d.*
If Counsel,	3 *s.* 4 *d.*

The defendant hath two ways of removal: the one by a *Levata querela*, into the Mayor's Court; the other by *Habeas corpus*.

The charge of the *Levata querela* is 5 *s.* 10 *d.* for carrying up the Record, as you agree with the Clerk of the papers.

The defendant after the plaint is certified up, may prefer his Bill there in the Mayor's Court, if he hath equity; or afterwards remove it from thence by *Habeas corpus*: but if the defendant carry not up his plaint in time, the plaintiff will have a *Remandetur*, and so try it in the Sheriff's Court.

If the defendant bring his *Habeas corpus*, and remove it;

The Writ,	13 *s.* 7 *d.*
The allowance,	2 *s.* 4 *d.*
The return,	2 *s.* 6 *d.*

If any other actions, 4 *d.* apiece for the allowance, and 6 *d.* apiece for the return.

Note, that in all actions under 4 *l.* 19 *s.* unleſs it be where trial of title of land is concerned, though the Writ be allowed, and the plaint returned, the plaintiffs attorney may proceed to trial againſt the defendant, notwithſtanding the removal and return, and ſhall recover his debt againſt the defendant; but his Bail are freed: but it is otherwiſe if the defendant turns himſelf over into the Kings Bench or Fleet.

Alſo obſerve that if there be ſix weeks between the Bail and iſſue joyning, the defendant ſhall not remove his plaint by VVrit, but ſhall ſtand trial below.

The defendant after recovery againſt him by a Jury, may before judgement mark his cauſe before the Lord Mayor, charge 5 *s.* 10 *d.* Then he, or ſome other perſon, enters into a Recognizance double the recovery to the Chamber of *London*, to ſtand to ſuch order as the Lord Mayor ſhall make therein.

After ſuch order made by the Lord Mayor, the defendant pays the Plaintiffs coſt into the Court within 14 days, and gives ſecurity in the Compter by bond to pay the recovery, according to ſuch order, to the plaintiff: the plaintiff pays for bringing down ſuch order 4 *s.* 6 *d.* which charge is allowed.

The plaintiff may ſometimes get a *Procedendo ad Judicium* out of the *Chancery*, and ſo prevent the Lord Mayors Order: but it muſt be done before the Lord Mayor make his Order.

The defendant cannot mark his cauſe before the Lord Mayor, if once remov'd by *Habeas corpus*.

Note, if a recovery be obtained on Thurſday, the defendant muſt be ſure to mark the cauſe before the next Court, elſe judgement will be entred *Sedente curia.*

Note, that if the Verdict be found for the defendant,

dant, the Court always abateth out of the Defendants costs 3 *s.* 4 *d.* out of favour to the Plaintiff

What Rule or stay of execution is entred upon Record, you always pay 4 *d.*

If a Freeman be arrested for a debt under 40 *s.* though he put in Bail after arrest, yet if he warn the Plaintiff to the Court of Conscience, though on Bond; that Court will order it, and compel the Plaintiff to loose his charge, and stand to their Order.

A Woman that exerciseth a Trade without her Husband, is chargeable without him, as a sole Woman, or sole Merchant; yet the action must be entred against both: and it must be laid in the action thus: *Jane his Wife, who solely Merchandizeth without her Husband in the Art or Mystery of the Sempsters, or other Trade.* She may plead as sole, and shall have her Law and other advantage by way of Plea; and if condemned, shall be put in Prison till she pay the Debt: the Husband or his Goods in such case shall not be charged nor impeached. The Bail for the Woman are liable to pay the Debt, if she absent her selfe.

If the Defendant be a prisoner, the Plaintiff may enter his action against him, Fee his Attorney, send for him to Court by a *Duc fac.* and proceed to trial. The charge of the *Duc. fac.* is 12 *d.* if an Execution, 2 *s.* 6 *d.* and so if in *Ludgate*, which is a Prison of ease to Freemen in respect of charge, the costs all one, and the proceedings as from either Compter alike.

A prisoners charge in going from the Compter to *Ludgate*, which is called his *Horse*, is 16 *d.*

Ministers, commonly called Clerks, have the like privileage.

A *Scire post annum*, for reviving a Judgement after a

year and a day, will coſt uſually, 12 or 13 *s.*

To the Attorney more, 2 *s* 6 *d.*

And Judgement thereon, 2 *s.* 8 *d.*

If an action be entred againſt a man, and the Plaintiff employs a Serjeant, gives him his Fee, and he afterwards arreſts the party, and takes his word; the Plaintiff having fee'd his Attorney, may give a warning to the Quarter-man, charge 4 *d. viz.* warn in——Serjeant at Mace, to appear at the next Court, to ſhew cauſe why he arreſted——and let him go without Bail to the Plaintiffs action.

If the Officer appear not on the warning, the Plaintiff may have an attachment againſt him, which is delivered to the Quarter-man, who by vertue thereof compels him to come in the next Court.

The attachment, 1 *s.*

The Officer for ſerving, 1 *s.*

The Officer appearing, the Court orders him to pay the Fees of the attachment and Officer, the Plaintiff proving the arreſt: then if the Officer deſires further day to bring in the Defendant, with the conſent of the Plaintiff it is granted.

Or the Plaintiff may bring a ſpecial action of the Caſe againſt the Officer; but it muſt be entred againſt him as Serjeant at Mace, on the action: then declare ſpecially, ſetting forth the debt, the former action, and the arreſt: which three being proved, the Jury may or do commonly find the Plaintiffs debt and damages.

If a Defendant will, he may go on by proviſo; and if no iſſue, tender an iſſue after a Declaration; and upon the Plaintiffs neglect of ſummons of one Court-day after iſſue joyned, the Defendant may crave his proviſo, charge 2 *s.* and ſo proceed to trial: and his coſts ſhall be allowed as before, all but 3 *s.* 4 *d.* onely the Court will allow but 12 *d.* for putting in Bail.

If

If a man under arreſt give any moneys to an Officer, it is of courteſie, not of right, and not a penny thereof allowed.

Note that a Defendant may wage Law to an action of debt upon a *Conceſſit ſolvere*, unleſs for Rent.

Note that if a Cauſe be removed by *Habeas Corpus*, and pledge given for the Defendant before a Judge, the Bail are liable to all other Declarations given to the Defendants Attorney the next Term after Bail: and the Defendants Attorney will be compelled to receive the Declarations.

Attachments, properly called Forraign Attachments.

Every attachment is made upon a plaint of Debt; as thus: *A.* oweth *B* 100 *l* and *C.* is indebted to *A.* 100 *l. B.* entreth an action againſt *A.* of 200 *l.* and by vertue of that action a Serjeant attacheth 100 *l.* in the hands of *C.* as the moneys of *A.* to the uſe of *B.* which is returned upon that action. It muſt be returned betwixt certain hours; for that another attachment may happily be made after in the hands of *C.* ſo that *C.* hath no other way to avoid that other attachment made in his hands, but by pleading the former attachment made as aforeſaid.

The attachment being thus made and returned by the Serjeant, the ſafeſt and ſecureſt way for the Plaintiff is, immediately, or before the next Court holden for the ſame Compter, to Fee an Attorney: for although the attachment be returned and made upon that action of Debt, where four defaults are marked; yet if the Defendant ſhall come and put in pledges or Bail to the ſaid attachment, the Defendant may at the next Court non-ſuit the Action, and recover charges againſt the Plaintiff: which if the Plaintiffs Attorney were fee'd, might be prevented.

Four Court-days must first pass, before the Plaintiff can cause the Garnishee, which is *C.* in whose hands the monies was attached, to shew cause why *C.* shall not condemn the 100 *l.* attached in the hands of *C.* as the monies of *A.* the Defendant upon the action (though not upon the attachment, for *A.* hath no day in Court) to the use of *B.* the Plaintiff.

Then the Garnishee *C.* may appear in Court by his Attorney, wage Law, or plead that he hath no monies in his hands of the Defendant, or other special matter.

The Garnishees charge then, if he wage Law only, is,

*A*ppearance,	2 *s.* 6 *d.*
The wager of Law,	4 *s.* 8 *d.*

If the Garnishee refuse to wage Law, the Plaintiff may try the cause in four Court days following, after the *Scire facias* comes into the Court.

If the Garnishee will plead that he hath no monies in his hands of *A. &c.* the charge then of the Plaintiff, and before, is,

The *A*ction and Return,	8 *d.*
The Officer,	1 *s.*
But if the Garnishee be not present, he will have	2 *s.*
The warning in the Garnishee,	1 *s.*
The appearance by an *A*ttorney,	2 *s.* 6 *d.*
The *Scire facias*, usually,	2 *s.*
The issue,	4 *s.*
The summons of the Jury,	4 *s.* 8 *d.*
If a *Subpœna*,	2 *s.*
The Councel,	3 *s.* 4 *d.*
The Verdict of the Jury,	4 *s.* 6 *d.*
The Judgement,	2 *s.* 8 *d.*

Then the Plaintiff must put in Bail or pledge, that if the Defendant shall come within the year and the day

day next enſuing into the Court, and that he can diſcharge himſelf of the ſaid monies ſo condemned in the Court, and that he owed nothing unto the Plaintiff at the time in the plaint mentioned; the ſaid monies ſhall be forthcoming to the plaintiff, *viz.*

The plaintiffs Bail.	1 *s.* 4 *d.*
Satisfaction upon Record,	1 *s.* 4 *d.*

But if the plaintiff giveth a Note and Warrant to his attorney, he payeth more,

Two Warrants,	8 *d.*
The attornies Fee,	1 *s.* 8 *d.*

So likewiſe if the plaintiff gives a warrant to his attorney for ſatisfaction upon Record upon an action, he pays the like ſum of 2 *s.* 4 *d.*

If the ſum attached be under 40 Mark, then he pays but 3 *s.* 8 *d.* for the ſummons, and 3 *s.* 6 *d.* to the Jury.

An attachment may be made for goods and monies at the ſame charge (but the ſum muſt be certain) all upon one attachment, and both in one *Scire facias*: If for goods, then a judgement for an appraiſement (if no appearance by the Garniſhee) the charge, 2 s. Then the Plaintiff proceeds to a Bill of appraiſement, and to charge for the ſummoning of the Jury; then he muſt prove the value of the goods, and judgement then paſſeth, 2 *s.* 8 *d.* then Bail and ſatisfaction.

Now an attachment may be made in the plaintiffs own hands, either of monies, or goods, or both.

If of mony, the charge,

The action and return,	8 *d.*
The appearance by attorney,	2 *s.* 6 *d.*
The *Scire facias*,	2 *s.*
The *Fiat executio*,	2 *s.* 8 *d.*
The Plaintiffs Bail,	1 *s.* 4 *d.*
The ſatisfaction,	1 *s.* 4 *d.*

Then the attachment is perfected, so that the defendant can put in no bail to dissolve the attachment.

If the attachment be made of goods in the plaintiffs hands, then the charge is as followeth.

The action and return,	8 *d.*
The Officer,	1 *s.*
The appearance *per* attorney,	2 *s.* 6 *d.*
The *Scire facias*,	2 *s.*
The judgement for appraisement,	2 *s.*
The bill of appraisement,	2 *s.*
The Officers hand,	1 *s.*
The *Fiat executio* or judgement,	2 *s.* 8 *d.*
The Bail,	1 *s.* 4 *d.*
The satisfaction,	1 *s.* 4 *d.*

But the plaintiff must observe, that after judgement is given by the Court for the appraisement of the goods, he must bring two Free-men of *London* into the Court the next Court-day following, there to be sworn that they have made an appraisement of the goods to the best of their skill and knowledge; who put their hands to the appraisement.

An attachment is never throughly perfected, till there be bail and satisfaction upon Record; for that Bail may be put in by the defendant to dissolve the attachment: then all the plaintiffs charge is lost, and himself never the nearer.

If an attachment be made of goods, amongst which there are some trunks or boxes locked, it ought to be so returned by the Serjeants upon the action; and the Court, the next Court after the four Court-daies past, will grant judgement for opening: which charge is 2 *s.*

If an attachment be made of Jewels, either in a mans own hands, or in a third parties hands, it ought to be returned so upon Record.

If an attachment be made of moneys upon a Bond

Bond or Obligation, the penalty must be attached: the Court afterwards will abridge it to the principal.

The Garnishees Fees.

The Garnishee (who is the party in whose hands the money is attached) being warned in (after the four Court-days are past as before) to appear to shew cause why the moneys or goods attached in his hands shall not be condemned in Court to the use of the Plaintiff, must go to an attorney in the Court, and give him his Fee: then if he can wage his Law, he may be discharged, by swearing, he hath no monies nor goods in his hands of the parties against whom the attachment is made, upon the payment of his Fees (as is before expresst) of 7 *s.* 2 *d.* But if he will plead, he must put in Bail or pledges before the second Court-day after the *Scire facias* comes in: otherwise, for want of Bail put in, he is condemned for the whole sum; then judgement is awarded against him, and he left remediless as to tryal by a Jury: which if he put in Bail, and plead that he hath no money or goods in his hands of the parties against whom the attachment is made, it will then be tryed by a Jury, and he may make his defence.

The Garnishees charge to a tryal.

The appearance by his attorney,	2 *s.* 6 *d.*
The Bail,	1 *s.* 4 *d.*
Copy of the *Scire facias*,	1 *s.*
Issue,	4 *s.* 8 *d.*
The attornies Fee at tryal	1 *s.* 8 *d.*
If Counsel,	3 *s.* 4 *d.*

The Garnishee after tryal may put in bail, in the absence of the party against whom the attachment is

is made, before the Lord Mayor, and ſo diſſolve the attachment, and all the proceedings thereon: but then he and his ſecurity are lyable to what debt the plaintiff ſhall make appear to be due from the defendant. The proceedings then are as upon an action, and the charge too alike.

The charge of putting in Bail before the Lord Mayor will be about 6 *s.* 8 *d.*

The party againſt whom the attachment is made, may put in Bail at the Compter, charge 2 *s.* 8 *d.* or ſubmit his body, and thereby diſſolve the attachment; which he may do, or the Garniſhee, at any time before ſatisfaction acknowledged upon record by the plaintiff.

All charges upon an attachment are loſt on the Garniſhees and plaintiffs part.

If the Garniſhee fail to appear by his attorney, being warned in by the Officer of the next Court to ſhew cauſe as is aforeſaid; he is taken by default for want of appearing by an attorney, and judgement is given againſt him for the goods or monies attached in his hands, and he is left remedileſs, either at common Law or equity, by reaſon of his non appearance, although he hath not one penny in his hands; and if taken in execution, muſt pay the mony, or go to priſon: then he may put in bail for the defendant; but the bail or pledges are lyable to what the defendant owes to the plaintiff, unleſs they can reprieve or bring forth the body of the defendant to the action.

If the money be attached in the Garniſhees hand upon a bond, or other contract under ſeal, where the money is not become due at the day therein mentioned, the Garniſhee may by his attorney put in his plea, and ſet forth that the day of payment it not come: and the Court will give him his day of payment accordingly.

If

If goods be attached in the Garnishees hands, and he hath a Bill of sale of the goods, he may plead it in Court, and so acquit himself.

If an attachment be made of an Horse, Mare, Nag, or Gelding, the attachment must so be returned: and if the Plaintiff prove either, it is good: otherwise if an attachment be made of an Horse, and it proves to be a Mare, the attachment will be avoided.

If an attachment be made of a Horse or a Mare in an Inn keepers hand, he appearing by his Attorney may put in his plea, setting forth that there is so much Horse-meat due; and the Court will give him his money, before the Plaintiff shall have Judgement for appraisment of the Horse or Mare.

No attachment lies of Rent; whether for that the Land lord being the Lessor may distrain on the goods, it is not here disputed.

Attachments remain in force as actions. *Vide* the continuance of actions as before.

When an attachment is well-near expired of the sixteen weeks, the Plaintiff may move by his Attorney for the continuance of the attachment for sixteen weeks longer; and it will be granted by a Rule in Court.

The charge,	2 *s.*
Rule,	4 *d.*

Then if the Garnishee happen to come into the City after the former sixteen weeks expired, and within the next four moneths, by the Rule obtained the Plaintiff may cause a Serjeant to warn in the Garnishee, to shew cause as is before; and the Garnishee shall be compelled to plead as before. The Plaintiff must cause the Rolls to be brought into the Court; which port-Roll is 1 *s.* 4 *d.* and 2 *s.* 6 *d.* to his Attorney: the other Fees as before.

If

If the money or goods of a prisoner, either in the *Kings Bench* or *Fleet*, be attached in the Sheriffs Court, the prisoner may come from that prison, and submit his body to prison to the action, and so dissolve the attachment, and bring his *Habeas Corpus*, and go up in person before a Judge, and be turned over to the said prison where he formerly was a prisoner: but it must be done before satisfaction.

To hinder the Garnishees waging Law.

After the Plaintiff hath appeared by his Attorney, and put into Court his *Scire facias*, then if the Plaintiff hath two good sufficient and lawful Citizens of *London*, that can swear, either by the Garnishees own confession, or of their knowledge, that the Garnishee hath either moneys or goods in his hands of the parties against whom the attachment is made, at the time of the attachments making, or since, he may prevent the wager of Law; to which purpose he must get those two Freemen to make two *Affidavits* before the Lord Mayor, drawn up to that effect, and file them by his Attorney, to a plea called commonly an *Estoppel*, and bring the plea with the *Affidavits* annext, and offer them in Court; which will be accepted. Then the Garnishee is hindred in his waging of Law, and the Plaintiff at liberty to go on to tryal by a Jury.

The charge of the *Affidavits*, 6 *s.* 8 *d.*
The Plea, 7 *s.*

The Garnishee may either levate his cause into the Mayors Court by a *Levata Querela*, charge 5 *s.* 10 *d.* then he must agree for the certifying the cause up, as before upon an Action: or else he may bring a *Certiorari*, and remove it into the *Kings Bench*, or other superior Court, and there put in Bail for the Defendant.

An

An attachment may be avoided by filing an Original against the party upon the attachment, so that it be filed before the date of the plaint.

After satisfaction upon Record, and when the money is fully condemned by the Plaintiff, the party against whom the action is, and whose goods are attached, may come and put in Bail *ad disprobandum debitum*; the charge,

Bail, 2 *s.* 8 *d.*
Appearance, 2 *s.* 0 *d.*

Then he must put into the court his *Scire facias*, 13 *s.* but it must be within the year and the day next ensuing after satisfaction.

Bail being put in, the Defendant may give a Rule by his Attorney for the Plaintiff to declare: but if the Plaintiff declare not, he shall be non-suited, and the moneys given again to the Defendant.

If the Plaintiff declares, and the Defendant can discharge and justifie himself by Law that he ought nothing to the Plaintiff at the time in the plaint mentioned, then the Defendant shall have restitution of all such Goods and Chattels so taken, or of the value thereof, and of the moneys which the party hath received by the attachment: so likewise he shall have restitution of parcel of the debt, if the Defendant can discharge himself, although he cannot discharge himself of the whole: and if the party that made such attachment, and had Execution, be not sufficient, then his pledges shall be charged.

If a man dies intestate, an attachment may be made of moneys or goods, or both, in a third parties hands; but then the attachment must be entred against the Lord Bishop of *London*, reciting his name: but when there is a Will proved, or Letters of Administration granted, the attachment dies, and it must be again made against such Executor or Administrator

niſtrator, unleſs it be condemned fully in the interim.

Note that when a Defendant hath put in Bail upon the attachment, and ſo diſſolved the attachment, he may have a note from the Clerk directed to the Garniſhee in whoſe hands the moneys or goods were attached, certifying him, that the attachment made in his hands is diſſolved by the Defendants putting in Bail; ſo that then he may ſafely deliver the goods, or pay the moneys to the Defendant.

Sequeſtrations.

A *Sequeſtration* is made upon an action of deor, as an attachment: the charge much alike. The action being entred, the Officer goes to the Houſe, Shop, or Ware-houſe, when there is none therein: then takes a Pad-lock, and hangs it on the door of the Houſe, Shop, or Ware-houſe, uſing theſe words or the like; *I do ſequeſter this Houſe, Shop, &c. and the Goods and Merchandizes therein of the Defendant upon the Action, to the uſe of the Plaintiff:* then puts on his Seal, and makes return thereof at the Compter upon the action. Four Court days being paſt, the next Court after, the Plaintiff may have Judgement to open the doors, and to appraiſe the Goods by a Serjeant, who takes a Bill of appraiſment of the Goods and Merchandizes therein, having two Freemen who appraiſe them to the beſt of their skill and knowledge, of which they are to be ſworn at the next Court holden at *Guild hall* for that Compter: then the Officer putteth his hand to the Bill of appraiſment, and the Court granteth Judgement, as upon an attachment.

The Defendant upon the action may put in Bail before ſatisfaction, as upon an attachment, and ſo diſſolve

diſſolve the Sequeſtration; or after ſatisfaction put in Bail *ad diſprobandum debitum.*

The proceedings after Bail alike as upon attachment.

The charge of a Sequeſtration for the Plaintiff.

The action and return,	8 *d.*
The Officer for making the Sequeſtration,	2 *s.*
The Padlock,	
The appearance,	2 *s.* 6 *d.*
The *Scire facias*,	2 *s.*
The judgement for opening, and the appraiſement,	2 *s.* 4 *d.*
The Officer for going to break open the door,	2 *s.*
The Bill of appraiſement, 2 *s.* 6 *d.* ſometimes more.	
The Officers hand,	1 *s.*
The *Fiat executio* or judgement,	2 *s.* 8 *d.*
The Bail,	1 *s.* 4 *d.*
The ſatisfaction,	1 *s.* 4 *d.*

That an executor or adminiſtrator may be adviſed how to diſpoſe of the Teſtators or Inteſtates eſtate, he or ſhe muſt pay all things in their kinde.

1. He muſt be careful to finde out what judgements be againſt the Teſtator or Inteſtate in his life-time, for that judgement ought and muſt firſt be paid.

2. What bonds or bills, being both ſpecialties, are under the Teſtator or Inteſtates hands; which muſt next be ſatisfied and paid.

3. What book debts are due or owing: theſe the Teſtator or Inteſtate may pay *ad libitum.*

4. Then pay Legacies.

For note, if an executor or adminiſtrator ſhall pay bonds or bills before a judgement, it is paid in his or her own wrong: and ſo likewiſe if he or ſhe pay book debts before bonds or bills, he or ſhe is upon theſe

these cases lyable to pay it again. Then after debts are discharged, legacies are to be paid.

It is the fear of many to administer, especially of Widows; yet without doubt it is the safest and best way: and the Widow may advantage her self thereby, so that she do observe to pay all things in their kinde, as is before expressed.

If she be certain that there is no judgement against her husband in his life time, then let her confess a judgement upon one bond or more, that shall amount with the penalties to the value of the estate; and that judgement shall bar all other bonds or bills and book-debts whatever. And there is no danger in becoming pledge or bail for a Widow to any action, upon such bond or debt brought against her.

The charge in confessing a Judgement.

The action and bail,	2 *s.*
The declaration, attorney and Court,	4 *s.* 4 *d.*
The judgement,	4 *s.* 4 *d.*
The attorney to confess the judgement,	2 *s.*
The warrant,	4 *d.*

If judgement be pleaded in *Guild-hall*, she shall recover her charge against the plaintiff, if the judgement be confessed in that Court.

Concerning the Priorities of judgements, there is no such thing; first come, first paid: for he that hath the last judgement, if he levy the goods in execution first, he shall be paid, and the rest laid aside, unless there be an overplus of the goods, amounting to more then the sum contained in the judgement.

THE

THE SOLLICITOR IN THE LORD MAYORS COURT, IN LONDON.

CHAP. XXII.

ON the Lord Mayors side is held a Court both of Law and Equity; there is proceedings at Law by Action and arrest of the body, or else by Attachment of the Defendants goods; and the proceedings in that case much like the other Courts of Common Law.

There is also a Court of Chancery or Equity held before the Lord Mayor, wherein they do proceed by English Bill, Answer, Replication and Rejoynder, much like the proceedings in the high Court of Chancery.

This court is held Mondays, Tuesdays, and every

day in the week, if the Lord Mayor please to sit.

There is a practice called marking of a Cause before the Lord Mayor, which is: after a Verdict given for the Plaintiff in the Sheriffs Court, the Defendant gets the cause marked before the Lord Mayor, which is done by one of the Clerks in the Lord Mayors Court, and is like an Injunction in Chancery, to stay Judgement and Execution until the matter be examined in Equity; where the Lord Mayor doth oftentimes, if cause be, mitigate the damages, or give the Defendant time to pay it.

The custom of *London* is, that if a plaint of Debt be entred in the Sheriffs Court, upon suggestion of any of the parties, the Mayor may send for both of them, and examine them upon the truth of the matter before Judgement; and if he find that the party is satisfied, that of so much he may bar him, but not after judgement, 10 *H.*6.14,15.

Where he in the Revertion upon a Lease for years is impleaded of Lands in *London*, and makes no default, the Mayor is to enquire by Neighbours in the presence of the Termor or Demandant, whether the plea be moved by a good right, or by fraud, to make the Termor to lose his Term: and if it be found upon a good right, the Demandant shall have judgement presently; and if not the Termor shall have his Term, and the execution of the judgement shall be so suspended. Stat. *Glouc. chap.* 11. *Deceit* 1.

CHAP.

CHAP. XXIII.

Of Forreign Attachments in London.

BY the custom in *London*, one may attach money or goods of the defendants, either in the plaintiffs own hands, or in the custody of a third person, and either in the Mayor or Sheriffs Court; and there if the defendant appear not, the goods may be condemned. The attachment is entred in the Office as actions are, but with this difference; they enter the hour of the day when the attachment is made: for if many attachments come against one mans goods, the first is first served.

He whose goods are attached in another mans hands, may come and offer himself to prison, or put in Bail, and dissolve the attachment; and after may have a writ of priviledge, although he render himself to prison *gratis*, because he was in there by virtue of a plaint. But the plaintiff may have a new plaint against the defendant, and attach him by his goods, and then the defendant may remove it by a *Certiorare*; and when the second plaint is removed to the common Pleas, the Justices shall examine if the goods were attached for costs of suit, or for Merchandizes: and if for costs of suit, then the defendant shall be discharged; but if it be found by Oath that they were attached for Merchandizes, or for any other cause then before, then it shall be remanded.

But if the party were in execution in *London*, and afterwards ſuit is commenced in the common Pleas, a writ ſhall go to the Mayor and Sheriffs to have the priſoner there to anſwer and to make Attorney, and then he ſhall be ſent back: but if he were impleaded in the common Pleas, and afterwards arreſted in *London*, and this Court ſend for the party, he ſhall be diſcharged of the ſuit in *London*, by the priviledge of this Court, *M.* 38 *H.*6. 12 *P.*2.

When an attachment is made in the hands of a third perſon, there after the defaults, the defendant within the year and a day may put in ſureties to anſwer the plaintiff the duty, or may yeild his body to priſon, if that he cannot finde ſureties: and therefore in a writ of priviledge, after he had yeilded his body to priſon, he was bailed; and becauſe the yeilding was after the ſuit in the common Pleas by the defendant *gratis*, where the attachment was before the ſuit in the common Pleas, the Defendant was ſent back again to priſon in *London*: but where upon a *Capias* out of the common Pleas, and *nihil* returned, the defendant is arreſted in a baſe Court, coming to this Court, he ſhall have the priviledge of the Court, becauſe it is an arreſt of his body, *M.* 20 *H.* 6.3. *p.*1.

And note, the defendant ſhall not be attached by ſuch goods which he carrieth with him to diſburſe upon his ſuits, which he hath here, although it be more then he need to diſburſe, but he ſhall have priviledge for them, ſo as they ſhall not be attached after a ſuit commenced in the common Pleas againſt him, although he cometh into *London* in the vacation for the defence of his ſuit here.

In debt it was pleaded in Bar, that by the cuſtom, a plaint was entred before the Mayor and Aldermen in *Camera Guid-hall*, and a ſummons to the Serjeant

Serjeant to ſummon the defendant to be at the next Court, to anſwer the plaintiff; and if the Serjeant *Ore tenus* certifie that the defendant hath not any thing, *&c.* and the defendant maketh default alſo at the next Court, and by the plaintiff by word it is certified, that any one is in debt unto the defendant in the whole or parcel of the ſummons, that then he may attach the defendant by that ſummons to anſwer the Plaintiff; and if the defendant upon that ſummons, and three other ſummons, appears not being demanded, then a *Scire facias* ſhall be to the *Garniſhee*, to know why the plaintiff ſhould not have execution: and when he comes and acknowledgeth, that he ought to pay the ſum to the defendant, at a certain day to come, judgement ſhall be, that he ſhall pay it to the Plaintiff at that day, in ſatisfaction of ſo much as, *&c.* and he ſhall finde ſufficient Mainpernors to pay it at the day to the Plaintiff: and after ſureties found, and execution, the *Garniſhee* ſhall be diſcharged of ſo much as is demanded, and the defendant alſo of ſo much againſt the Plaintiff: and if the defendant after ſureties found to pay before the plaintiff hath execution, come and finde ſufficient ſureties to anſwer the plaintiff till the end of the ſuit, then the Garniſhee ſhall not be diſcharged of the ſum attached, nor the defendant againſt the plaintiff. But depending any ſuch attachment not detained, and before execution, the defendant ſhall not have an action of debt againſt the Garniſhee, if he ſhew and alleadge the attachment againſt the defendant. *Book entries Cuſtom* 141. *p.* 1.

Where a debt is due to two upon an entire Bond, and an attachment is made in the hands of the debtor, as to the Moiety for the debt of one, and he hath execution, there it is a Bar as to that Moiety

againſt both, as well as if one of them had releaſed or made an acquittance; and by the conuſans of one in a Court of Record, he may bar his companion of the whole, or parcel of the Debt: and that cuſtom is as ſtrong and ſubſtantial a diſcharge, as if he had releaſed, 22 *H.6* 40.

In debt brought in the common Pleas upon an Obligation of an hundred pounds, the defendant pleaded recovery by a forreign attachment, againſt the defendant, (and miſtook the cuſtom,) and that the judgement was againſt him: upon which the Plaintiff traverſed it, and ſaid, That there was no ſuch cuſtom: and the Mayor certified that there was no ſuch cuſtom; whereupon the plaintiff had judgement. 2 *H.* 3. 3. *p* 1.

In debt in the common Pleas, the defendant pleaded a recovery againſt him by forreign attachment by the cuſtom, and that judgement was againſt him, and that he ſhould be diſcharged before execution, where in truth the judgement by the cuſtom ought to be, that he ſhall be diſcharged after execution: and the Plaintiff ſaid that there was no ſuch cuſtom in *London*, and thereupon a *Certiorare*, where the cuſtom was certified at large; and that after the four defaults, he who is attached ſhall finde new Sureties to the Plaintiff for the ſame debt; and that ſhall be, that the Plaintiff ſhall have judgement againſt the *Garniſhee*, and that he ſhall be acquitted againſt the firſt debtor after the execution. And upon that certificate the Plaintiff here prayed judgement, and had it, as appeareth after: for the Traverſe is good, without being put to reverſe the judgement by a Writ of Error, although that they of *London* are Judges of the Record: for when there is not any ſuch cuſtom, that which was done, was *Coram non Judic*; and thoſe who are but particular Judges,

as

as in *London* and other Cities and Towns corporate, they have not power but within their own precinct; But if there be a Judge universal, there he hath power to hold plea of every contract made in any place, if not within a County *Palatine*; and there it judgment be against the form of Law, it shall be reversed by Error, 22 *E.* 4. 31, 32.

By the Custom of *London*, a man may make a forreign Attachment in his own hands; and the form is, that the plaint and summons shall be against the party whose goods or debt shall be attached: and upon default, then to make a surmise, that he himself hath goods of the party Defendant in his own hands, and pray that they may be attached; and after the four defaults come in Court, to find Sureties to render to the Defendant the goods or debt, or the value of them, according as they shall be appraised, if the Defendant come within a year and a day, and disprove the Plaintiffs demand, *&c.* and if the Defendant doth not come within the year and the day, and can bar the Plaintiff, that the Plaintiff shall have Execution: and there it was said that *Covin* could not be, but betwixt two persons at the least. And because it was said, after the year, that the Recovery was by *Covin*, and the party did not traverse the cause of the debt, the Plaintiff had Judgement, and the Attachment good, 39 *H.* 6. 19 *P.* 1.

It was agreed, that the Custom of Attachment in *London* was good and also that the Creditor may arrest such goods that the Debtor hath in his possession: and if none come within the year to make claim, that then they shall be apprized for the Debt.

In a Town Corporate, having a Court of Record, in a plaint of Debt, summons was to the under-Baily, who returned the party summoned by two, and made default, for which process of Attachment was, and the

Baily returned that he had attached him by forty cloaths, which remained in the hands of the Bayliff; and upon that, a second Attachment was by the said cloaths, and so until three defaults: and the Bayliff returned that he had not other goods to be attached; and thereupon day was given till another Court, that the Defendant came to answer or to hear Judgement; at which day Proclamation was made by the Custom of the Town, that the Defendant appear to answer; and because that he appeared not, Judgement was given for the Plaintiff, and the cloaths were prized by the Oath of six persons to twenty four pounds, and afterwards delivered to the Plaintiff in Execution. *Entries*, 203. *P.* 2.

In Detinue of two Gowns, the Defendant said that a plaint was entred against the Plaintiff by the now Defendant, upon a demand of thirty shillings, for which the Plaintiff was attached by the two Gowns within the City; and because the Plaintiff made four defaults which were recorded, the two Gowns were appriſed at twenty shillings, upon the Oath of two men, and then the two Gowns were delivered to the Defendant at the price of two and twenty shillings, by Sureties to restore the two Gowns, or the price, if the Plaintiff did disprove the Debt; and because the Mayor, Aldermen and Sheriffs, had all the Records *ore Tenus* remaining amongst themselves, for that cause a Writ went to the Sheriffs to certifie whether there were such a Record or not. *B. Entries*, 207. *P* 2.

Where a man is bound to deliver Wheat at such a Wharf, at such a day, and at such a value, by an Obligation; There the Creditors cannot attach it before the day in his hands by the Custom of *London*: for the Wheat is not the duty of the Obligation: and a man cannot be attached by any goods whereof he hath not a property at the time of the Attachment; and

and the party hath not Property in the Wheat till after the day, without delivery of it; for if he do accept another thing for it, it is good.

CHAP. XXIV.

Of the Court of Orphans *in the City of* London.

BY the Cuſtom of the City of *London*, the Lord Mayor and Aldermen of the City of *London* ſhall have the cuſtody of all *Orphans* within the City; and they may commit the cuſtody of ſuch *Orphans* to other Guardians: and if an *Orphan* be taken away from any other man to whoſe cuſtody he is committed, he ſhall have a Raviſhment of Ward; ſo that in this Caſe, this Court doth in ſome wiſe reſemble the late Court of Wards.

Likewiſe the Lord Mayor and Chamberlain of the City of *London*, for the time being, ſhall have the keeping of all the Lands and Goods of *Orphans* within the City: ſaving to the King and other Lords their Rights of ſuch as hold of them out of the ſame Liberty.

Executors and Adminiſtrators are to exhibit true Inventories before the Lord Mayor and Aldermen, and give ſecurity to the Chamberlain for the time being by Recognizance: and if they ſhall refuſe ſo to do, the Court may commit them to priſon until they do it.

And all ſuch Recognizances or Bonds made to the Cham-

Chamberlain concerning *Orphans*, ſhall go to him and his ſucceſſors, the Chamberlain of the City being a ſole Corporation for *Orphans*. If the Eccleſiaſtical Court doth impugne the Cuſtom of the Court of *Orphans*, or if they intrude into this Court, a prohibition lies out of this Court; or if any *Orphan* ſue in the Eccleſiaſtical Court or elſewhere for a Legacy, or any duty due unto them, the Court of *Orphans* may by the Cuſtom grant a Prohibition. *Cook Inſtit.* 4. *part pag.* 49.

Alſo by the Cuſtom of *London*, if a Father advance any of his children with any part of his goods, that ſhall bar them to demand any further, unleſs the Father under his hand, or in his laſt Will and Teſtament doth declare that it was but in part of advancement; and then that child ſo partly advanced, ſhall put his part in *Hotch-pot*, with the Executors and Widow, and have a full third part of the whole, accounting that which was formerly given him as part thereof. This the Civil Law calls *Collatio bonorum*.

CHAP. XXV.

Of ſeveral other Courts, Cuſtoms and Franchiſes of London.

The Court of Common-Councel.

THis Court is held by the Lord Mayor, Aldermen and Commonalty, reſembling the high Court of Parliament, & conſiſts of two Houſes, the Lord Mayor and Aldermen being of the upper Houſe,

House, and such as are chosen in every VVard out of the commonalty constitute the Lower House or House of Commons, and represent the whole Commonalty of the City of *London*.

Here they make Acts for the better government of the City, for the better execution of the Laws and Statutes of the Kingdom, for the publick good, and for the better advancement of Trade and Traffique, so as these Laws be not contrary to the Laws and Statutes of the Kingdom: and these Acts of Common council so made, do bind, within the City and the Liberties thereof.

The Court of Wardmote-inquest.

This resembles the Country *Leets*, every VVard being as a Hundred, and the Parishes as Towns; and in every Ward there is an Inquest of twelve or more sworn every year, to inquire of and present *Nusances* and other offences within the VVard, *&c.*

The Halmote.

This is as much as to say the court of the Hall, being the court which every company in *London* keeps in their Halls, which was anciently called the Halmote or Folkmote.

The Chamberlains Court for Apprentices.

Before the Chamberlain all Indentures of apprentices are or ought to be inrolled; and if they be not inrolled, the apprentice may refuse to serve, and sue out his Indenture in this Court at his pleasure, and be discharged from his Master.

The Chamberlain is the Judge in all complaints either

either of the servant against the master, or the master against the servant, and punisheth the offenders at his discretion.

In this Court are all apprentices made Free. One may be Free of *London* three manner of wayes; either by service, as are apprentices; or by birthright, as being the son of a Free-man, which is called Freedom by his Fathers Copy; or by Redemption, by order of the Court of Aldermen.

The Court of the Conservator *of the water and River of* Thames.

The Lord Mayor of *London* for the time being is the *Conservator* or governour, and hath the Rule and government of the water and River of the *Thames*, and the issues, breaches, and lands overflown, from *Staines-Bridge* unto the water of *Yendal* and *Medway*; and hath authority touching the correction and punishment of such as use unlawful Nets or Engines in fishing, or take Fish under size, or unseasonably, *&c.* 4 *H.*7. *cap.*15.

And in all Commissions touching the water of *Lee*, the Mayor of *London* shall be one, 3 *Jac. c.*14.

CHAP. XXVI.

Of the Court of Admiralty.

THis Court is holden at the Doctors Commons in *London*, and is, for the decision of *Maritime* causes, that is, things done *Super Altum Mare*, upon the main Sea. This

This Court it is ſuppoſed was not put out of the Kings houſe, and given over unto the charge of the *Admiral*, until the time of *Edward* the Third, who was much buſied with affairs beyond the Sea, by reaſon of wars in *France*, and of the Entercourſe of Trade and Merchandize which then flouriſhed; and becauſe there is no mention made of this Court before the ſecond year of King *Richard* the Second, who in the 13 year after his coming to the Crown, by Act of Parliament reſtrained the authority of this Court, which had exceeded her known limits, and reduced her authority to her known limits.

13 *R.* 2. *cap.* 5. It is enacted that the Admirals and their deputies ſhall not meddle from henceforth with any thing done within the Realm of *England*, but onely with things done upon the Sea, according to that which hath been duly uſed in the time of the Noble King *Edward*, Grand father of King *Richard* the Second: by which it is evident that the Court of Admiralty hath juriſdiction only in things done upon the Sea.

Stat. 15 *R* 2. *cap.* 3. It is enacted that the Court of the Admiral hath no manner of Conuſance, power or juriſdiction of any manner of contract, plea or quarrel, nor of any other thing done or riſing within the bodies of the Counties, either by land or by water, and alſo of wreck of the Sea, but all ſuch manner of quarrels, pleas and contracts, and all other things riſing within the bodies of the Counties, as well by land as by water, as is aforeſaid, and alſo wreck of the Sea, ſhall be tried, determined, diſcuſſed and remedied by the Laws of the land, and not before nor by the Admiral nor his Lieutenant, in no manner: nevertheleſs of the death of a man, and of a *Mayhem* done in great Ships, being and hovering in the main ſtream of the great Rivers,

Rivers, onely beneath the points of the ſame Rivers, and in no other place of the ſame Rivers, the Admiral ſhall have Conuſance. Here note, the admiral hath a greater juriſdiction in caſe of the death of a man, and *Mayhem*, then in other caſes; for in all other caſes happening within the *Thames*, or any other River, port, or water, which are in any County of the Realm, (as all Rivers and Havens be) the admiral or his Deputy hath no juriſdiction at all.

Stat. 27 *Eliz.* c. 11. likewiſe limits the juriſdiction of the admiralty, *viz*

All and every ſuch of the ſaid offences beforementioned as hereafter ſhall be done on the main Sea, or Coaſts of the Sea, being no part of the body of any County of this Realm, and without the precinct, juriſdiction and liberty of the Cinque ports, and out of any Haven or *Pier*, ſhall be tryed and determined before the Lord Admiral.

If goods be taken from an Engliſhman in *Spain* beyond the Sea, and the party cannot obtain Juſtice there, he ſhall have a writ to the Sheriff to arreſt the body of the offender, and to ſeize his goods to the value. *Regiſt origin.* fol 129. *F. N. B.* 114. ſo that where the party can have remedy at common Law, the admiral cannot hold plea.

If a Charter-party or any other contract be made without any City, Town or County of the Realm, though the performance thereof be to be done and performed upon the high Sea, yet the admiral hath no juriſdiction, becauſe it may be tryed at the common Law: but where the whole is to be done *Super Altum mare*, and no part of it *infra corpus comitatus*, there the admiral hath juriſdiction. For cauſes of actions which are tranſitory done out of the Realm, an action may lye at the common Law; but if the cauſe done beyond the Sea be criminal or local, then

then before the Conſtable and Marſhal onely.

It is no part of the Sea, where one may ſee what is done of the one part of the Water and of the other, as to ſee from one land to the other. That the Coroner ſhall exerciſe his Office in this caſe: and of this the country may have knowledge, 8 *E.* 2 *tit. Coron.* 399.

If one be ſlain upon any arm of the Sea, where a man may ſee the land on the one part, and of the other, the Coroner ſhall enquire of this, and not the Admiral, becauſe the Country may take conuſance of it, *Stamford, lib* 1. *pl coron. f.* 51. *b.*

An Action of Treſpaſs was brought againſt certain perſons for taking of a ſhip in the Haven at *Hull*; the Mayor and Bayliffs of *Hull* demanded *Conuſans* by the Charter of the King granted unto them, that the Citizens and Burgeſſes of *Hull* ſhould not be impleaded *Alibi de aliquibus tranſgreſſionibus, conventionibus & contractibus infra Burgum. &c. quam infra Burgum*, elſewhere of any Treſpaſſes, Covenants and Contracts within the Borough, *&c.* then within the Borough; and the *Conuſance* was granted: by which it appears, that the Haven of *Hull* where the ſhip did ride, was *infra Burgum de Hull*, and *infra corpus comitatus*, and determinable at the Common Law, and not in the Admiralty Court, 46 *E.* 3. *tit. conuſans* 36.

A Charter-party by deed indented was made at *T.* in the County of *N.* between *E. O.* of the one party, and *H. G.* of the other part: by the which *C.* did covenant with *G.* that a certain ſhip ſhould ſail with Merchandizes and Goods of *H. G.* to *M.* in *Spain*, and there ſhould remain by certain days, *&c.* upon the breach of which Covenant, *G.* brought an action of Debt of 500 *l.* upon a clauſe in the ſame Charter, and alledged the breach of the Covenant, for that the

ſhip

ſhip did not remain at *M.* in *Spain* by ſo many days as were limited by the covenant; whereupon iſſue was taken and tried and found for the Plaintiff: and in arreſt of judgement it was ſhewed, that this iſſue did ariſe out of a place totally and meerly in a forreign Kingdom out of the Realm, from whence no Jury of twelve men could come, and therefore the tryal was inſufficient: but it was adjudged that the Plaintiff ſhould recover 500 *l.* beſides his damages and coſts, for that the Charter-party, whereupon the action is brought, was made at *T.* within this Realm; and that the tryal being in the ſame place where the action was brought, was ſufficient, *Paſch.* 28 *Eliz. in Banco Regis.*

So that where part of the contract or other thing is made in any place, within any of the Counties of this Realm, though the performance thereof be *Super Altum mare*, upon the high Sea, yet the tryal and determination of the whole act belongeth to the Common Law, and is not within the Admiralty-Juriſdiction.

CHAP. XXVII.

Of Eccleſiaſtical or Spiritual Courts.

THeſe Courts were antiently called *Halimots*, that is Holy courts; *Cirogemots* or *Chirogemots*. They are many in number, and different in nature. The greateſt and higheſt of them is called the Convocation, of all the Arch-Biſhops, Biſhops, and the whole Clergy of both the Provinces of *Canterbury*

bury and *York*, the which is always ſummoned by the Kings writ, called *Adjutoria Regis*, and can do nothing without the Kings aſſent firſt had and obteined.

This Convocation conſiſts of two Houſes; the upper, where ſit the Arch-Biſhops and Biſhops; and the lower, where the other Clergy ſit: the whole Clergy of both Provinces being to be preſent in perſon, or by repreſentation. 24 *H.*8. *cap.* 12. 13 *Eliz. cap.* 12.

Their Juriſdiction is to deal with Hereſies, Schiſms, and other Spiritual and Eccleſiaſtical cauſes, proceeding therein *juxta legem divinam, & canones ſanctæ Eccleſiæ.*

The next to theſe be the two *Provincial Synods* of *Canterbury* and *York*, the later of which hath three other Biſhopricks ſubject to it, *viz. Durham, Carliſle*, and *Cheſter*; all the other owing their obedience to the *See* of *Canterbury.*

There was formerly an high Commiſſion, but that is diſſolved by Act of Parliament, *Anno* 12 *Car.* 2 *Regis.*

Then there is the Court of Delegates, to which there lieth an appeal from Sentence given in the Arches.

After theſe be the general Courts of the Arch-Biſhop of *Canterbury*, that is to ſay, the Conſiſtory, or Court of *Arches*, aſwel for appeals as matters of the firſt inſtance.

The Court of *Audiences*, or the Chancellors Court, which was wont to be holden in the *Arch*-Biſhops houſe.

The Commiſſaries (or the Prerogative) Court, for the probate of Wills, and granting adminiſtrations; and the Court of *Faculties* and *Diſpenſations*: but this laſt holdeth no Plea of controverſie.

Then there are the Special Courts of this *Arch*-Biſhop, as the Conſiſtory holden by his Commiſſary at *Canterbury* for his own Dioceſs, his *Arch*-Deacons

Court, and the Court of those peculiar Deanries which do belong unto him, and do lie in the Dioceſs of other Biſhops.

The Arch-Biſhop of *York*, and every other Biſhop alſo, hath in his Dioceſs the Court of his Chancellour, and the Court of his Arch-Deacon or Official.

The Judges of theſe Courts are either *Civilians* or Divines: and the Pleaders both in the Admiralty and Eccleſiaſtical Courts be Doctors and Proctors of the civil Laws: what their Fees are, they will ſoon reſolve you, if you have occaſion to uſe them.

CHAP. XXVIII.

The Court of the Dutchy-Chamber at Weſtminſter.

THe Court of the Dutchy took its beginning out of the grant of King *Edward* the Third, who firſt gave that Dutchy to his Son *John* of *Gaunt*, and endowed it with Royal Rights. Afterwards it was extinct in the Perſon of *King H.* 4. by reaſon of the union of it with the Crown of the Realm; But the ſame King knowing himſelf to be more rightfully Duke of *Lancaſter* then King of *England*, determined to ſave his Right in the Dutchy, whatſoever ſhould befal him in the Right

Right of the Kingdom: wherefore he ſeparated his Dutchy from the Crown, and ſetled it ſo in the natural perſon of himſelf and his Heirs, as if he had been no King or politick Body at all: and ſo it continued during the Reigns of *King H.* 5. and *King H.* 6. who deſcended from the ſame *King H.* 4.

But when King *Edward* the Fourth had reſtored the Crown under the Right of the Houſe of *York*, he appropriated that Dutchy to the Crown again: and ſo it continued with the Crown until the Reign of *King H.*7. who liking well of the policy of *King H.* 4. by whoſe Right alſo he obteined the Kingdom, ſeparated the Dutchy again from the Crown as he had done before, and ſo left it to his poſteriry, who yet injoy it.

The proceedings in this Court of the Dutchy-Chamber at *Weſtminſter*, is as in a Court of Chancery for Lands and other matters within the juriſdiction of the Court, by Engliſh Bill, *&c.* and Decree: but this Chancery is not a mixt Court, as the Chancery of *England* is, partly of the Common Law, and partly of equity, but admitting onely ſome ſmall mixture of the common Law, in ſome ſpecial caſes.

And in ſome things they are led by their proper cuſtomes and preſcriptions reſpectively.

There is alſo a Chancellour of the county *Palatine*; and the proceſs of this Court is firſt a Privy Seal, and Attachment and Commiſſion of Rebellion in caſe of contempt, as in the Chancery.

The Officers in this Court be the Chancellor, the Attorney, Receiver-general, the Clerk of the Court, the Auditors, Surveyor, the Meſſenger.

There is an Attorney of the Dutchy in the Chancery, and another in the Exchequer.

There be four learned in the Law Aſſiſtants and of Counſel with the Court.

The Seal of the Dutchy of *Lancaſter* remains with the Chancellor at *Weſtminſter*, and the Seal of the County *Palatine* remains always in the County *Palatine*, under the cuſtody of the Keeper thereof. All Grants and Leaſes of Lands, Tenements, Offices, &c. in the County *Palatine* of *Lancaſter* ſhall paſs under that Seal, and no other; and all Grants out of the County *Palatine*, and within the Survey of the Dutchy, ſhall paſs under the Seal of the Dutchy, and no other, 27 *H.* 8. *cap.* 16.

Juſtices of Aſſize, of Gaol delivery, and of the Peace, are, and ever ſince the erection of the County *Palatine* of *Lancaſter*, have been made and aſſigned by Commiſſion under the Seal of the County *Palatine* of *Lancaſter*.

In the County *Palatine* of *Lancaſter*, Fines are levied with three Proclamations before the Juſtices of Aſſize there, or one of them: and all Recoveries to be had of any Lands or Tenements in the County *Palatine*, are to be had in the Court of that county, and cannot be had at *Weſtminſter*.

In Treſpaſs in the county *Palatine* of *Lancaſter*, the Defendant pleaded a Forreign releaſe; the Court prefixed a day to the parties in Bank; the Record muſt be removed by *Certiorari* in Chancery, and by *Mittimus* into the Bench, there to be tryed, 22 *H.* 6. 48.

If Iſſue be joyned in the Kings Bench or Common-Bench, triable in the County *Palatine* of *Lancaſter*, it ſhall be tryed in the County of *Lancaſter*, and remanded hither, 27 *E.* 3. 84. 21 *H.* 7. 33.

It is called *Comes Palatinus*, a County *Palatine*, becauſe the owner thereof, be he Duke or Earl, hath all Royal Rights, Franchiſes and Priviledges, as the King had in his Palace; and might pardon Trea-

Treaſons, Murders, Felonies, and Outlawries upon them; Inſtitute and ordain Juſtices of Aſſize, Gaol-delivery, and of the Peace: And every Writ and Indictment in a County *Palatine* was ſuppoſed *contra pacem* of him that had the County *Pal.* and in his name is the *Teſte* of all VVrits; but the VVrits were made in the Kings name. But theſe and ſome others are now taken away, and annexed to the Crown, 20 *H.* 7. 6, 8. 27 *H.* 8. *Cap.* 24. *Paſch.* 11. *Dier.* 288, 289.

CHAP. XXIX.

Of all other Courts of Record in Cities, Liberties and Towns Corporate.

I Have ſpoken before of a Court of Record holden for St. *Martins* le Grand by Alderſgate: there is alſo a Court of Record holden in the Tower of *London*, for the liberty of the Tower; and another at St. *Katherins* for that Liberty; and a Court of Record kept weekly in the Borough of Southwark for the Liberty thereof; together with many Courts of Record belonging to Caſtles, Forreſts, and decayed Monaſteries, as that of the Honour and Caſtle of *Windſor*, and of the diſſolved Monaſtery of St. *Auguſtin* by *Canterbury*, *cum multis aliis*. The ſtyle and Title of theſe Courts, and all other, I have given you already in the Chapter of the Common Pleas, under

under the Section of the direction for writs: and as to the formality of their practice (except where they have some particular Customs, as in *London*) they all proceed *ad exemplum* of the Common Pleas and Kings Bench generally: so that being acquainted with the practice and proceedings in those superiour Courts, which I have largely and plainly herein demonstrated unto you, the inferior will easily appear obvious to your understanding.

FINIS.